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of
Election Laws
Revision Commission
to
The General Assembly
of 1967

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Report
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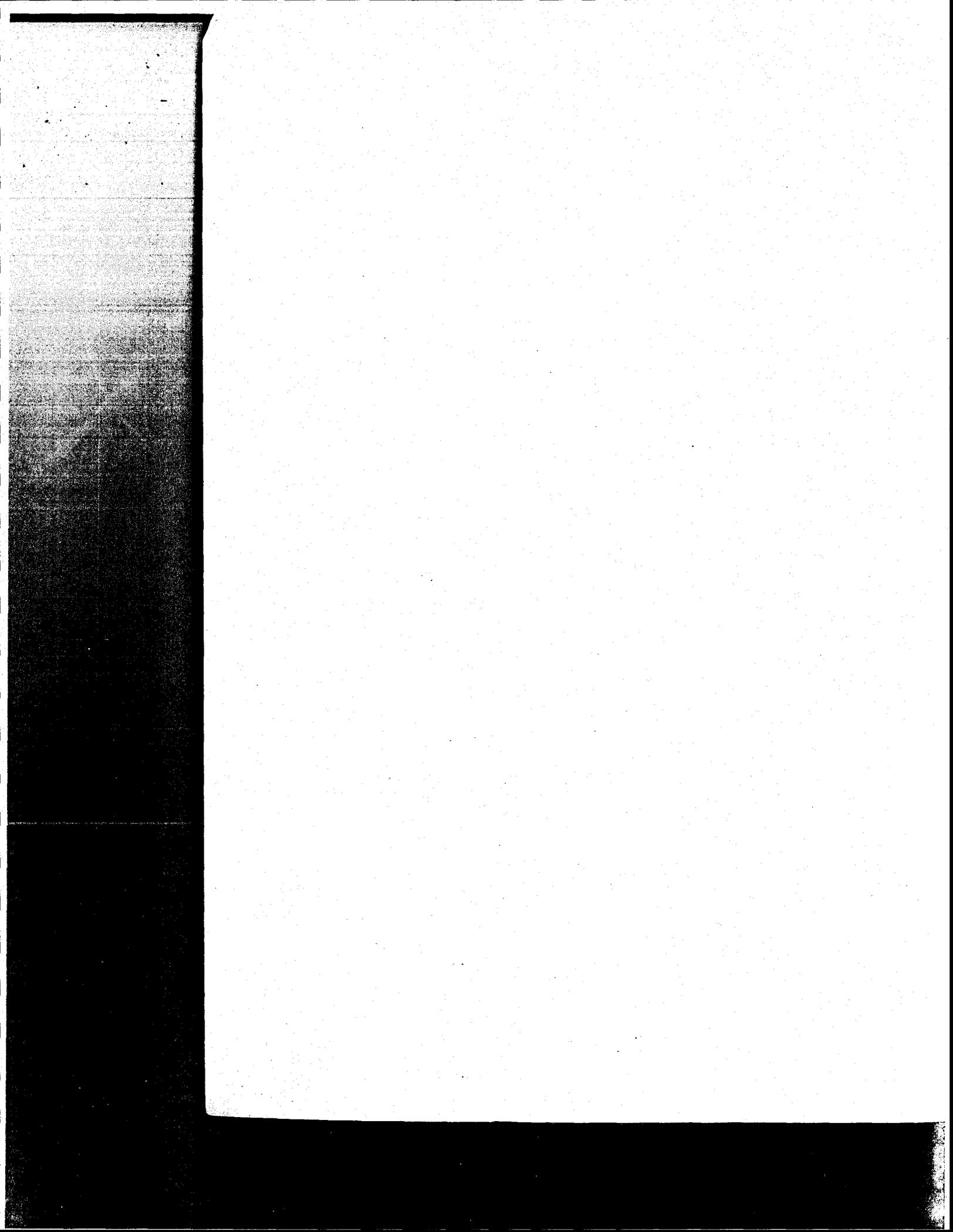
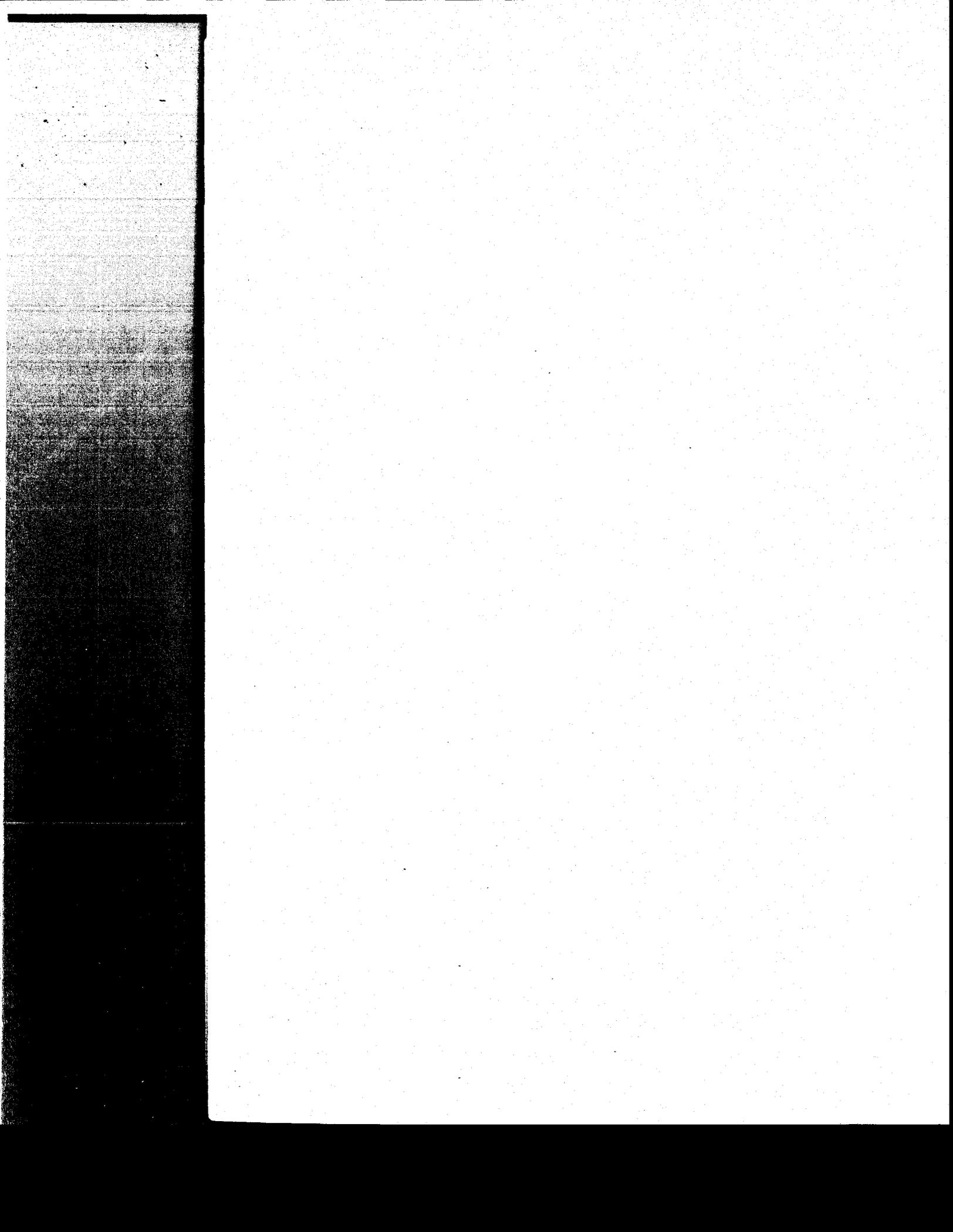


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RESOLUTION CREATING COMMISSION

Session Laws of 1965

Resolution 71

(S. R. 426)

A JOINT RESOLUTION PROVIDING FOR THE APPOINTMENT OF
A COMMISSION TO CONDUCT A STUDY OF THE ELECTION
LAWS OF THIS STATE AND TO RECOMMEND LEGISLATION
FOR THE RECODIFICATION THEREOF.

Be it resolved by the Senate, the House of Representatives concurring:

Section 1. There is hereby created a Commission to be known as the Election Laws Revision Commission. The Commission shall consist of seven members who shall be appointed for terms beginning September 1, 1965 and ending June 30, 1967 as follows: three members shall be appointed by the Governor, one of which shall be selected from a list of three nominees submitted by the State Chairman of the Democratic Party and one of which shall be selected from a list of three nominees submitted by the State Chairman of the Republican Party; two shall be appointed by the Lieutenant Governor from the membership of the Senate; and two shall be appointed by the Speaker of the House of Representatives from the membership of the House. The Commission shall elect one of its members as Chairman. Any vacancy shall be filled by the appointing authority who appointed the member causing the vacancy.

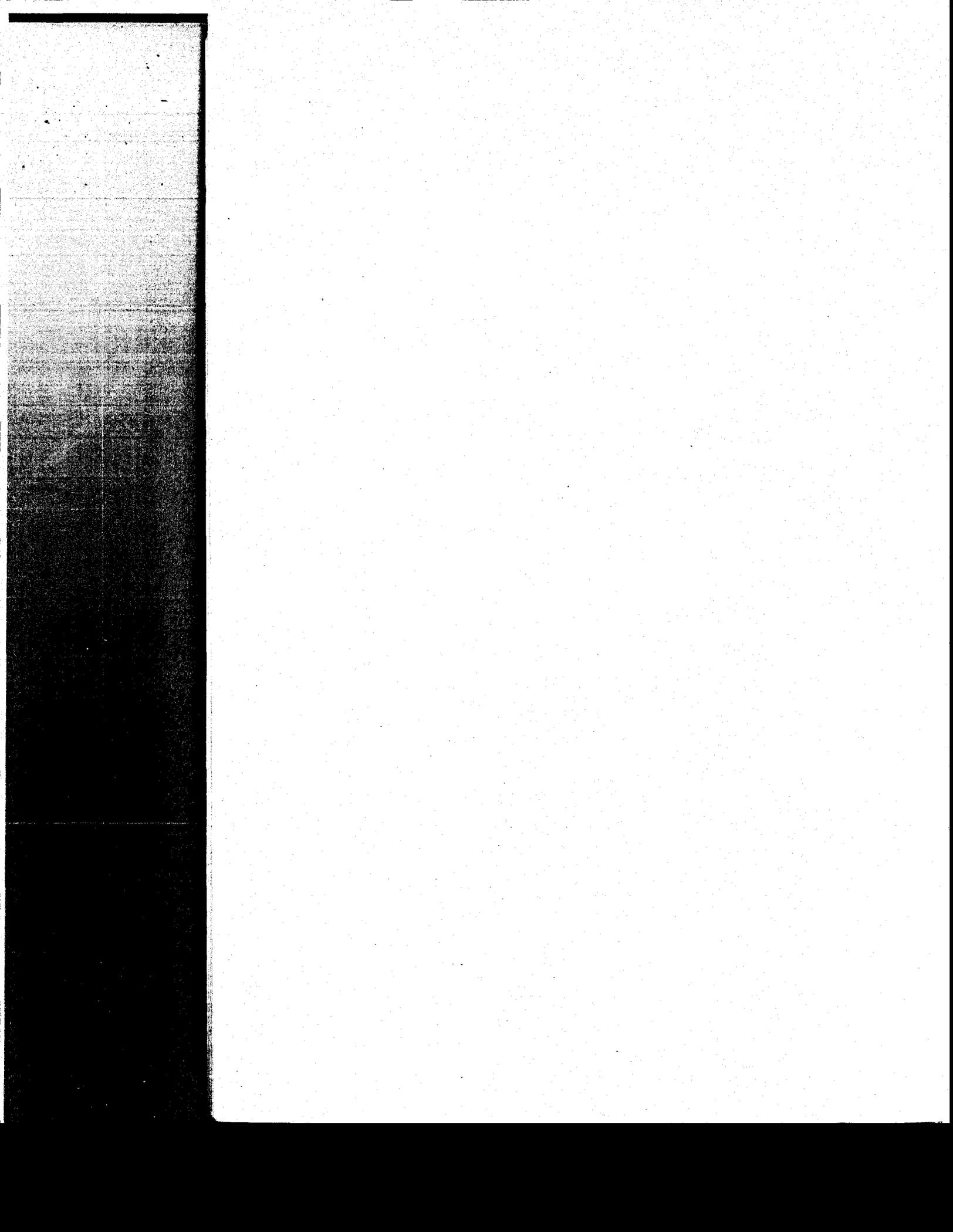
Sec. 2. It shall be the responsibility of the Commission to conduct a thorough study of the election laws of this State and to prepare and draft the legislation necessary to recodify the election laws to make them as clear and concise as possible and to remove any ambiguities, conflicts, and inaccuracies. The Commission shall proceed as expeditiously as practical after appointment and shall make its recommendations to the 1967 Session of the General Assembly immediately upon the convening thereof.

Sec. 3. The Commission shall meet at such times and places as the Chairman may designate. The members of the Commission shall be paid

such per diem, subsistence and travel allowances as are prescribed for State boards and commissions generally and shall be authorized to employ such clerical and other assistance and services as the Commission may deem necessary for the proper performance of its duties. The expenses incurred shall be paid out of the Contingency and Emergency Fund.

Sec. 4. This Resolution shall become effective upon its adoption. In the General Assembly read three times and ratified, this the 8th day of June, 1965.

REPORT OF ELECTION LAWS REVISION COMMISSION



PART I

THE COMMISSION'S REPORT

To the Members of the General Assembly of 1967:

In compliance with the provisions of Resolution 71 of the General Assembly of 1965, the Election Laws Revision Commission submits this report:

Organization

The Election Laws Revision Commission held its first meeting on January 14, 1966, and elected Senator Oral L. Yates as its chairman and Mr. J. Max Thomas as its vice-chairman. The full commission has met eight times for deliberations.

The members began their work with a careful consideration of Resolution 71, which created the Commission. They noted especially the following provision:

It shall be the responsibility of the Commission to conduct a thorough study of the election laws of this State and to prepare and draft the legislation necessary to recodify the election laws to make them as clear and concise as possible and to remove any ambiguities, conflicts and inaccuracies.

It was the unanimous opinion of the members that they were called upon to clarify, simplify, and codify, but not to write new law. They also agreed that their assignment was confined to the primary and general election laws as codified in Chapter 163 of the General Statutes of North Carolina.

The Commission invited the Chairman and Executive Secretary of the State Board of Elections to attend its sessions and to make any recommendations they felt desirable. The Commission asked the Attorney General to attend its sessions in person or through a deputy or assistant. As soon as the Commission was organized, letters were sent to the state chairmen of the Democratic and Republican Parties and to the chairman of each county board of elections, asking that they communicate to the Commission any suggestions they might have for its attention. A number of suggestions were received and given full consideration.

The Study

At the Commission's request, Mr. Henry W. Lewis of the Institute of Government of the University of North Carolina at Chapel Hill, undertook the research necessary to assist the Commission make its analysis of the State's present election laws. He also assisted the Commission in drafting the new codification. Mr. James F. Bullock, Assistant Attorney General, advised the Commission on the recodification of statutes defining criminal offenses in connection with office-seeking and elections. Mr. Alex Brock, Executive Secretary of the State Board of Elections, attended Commission meetings and advised the Commission on many points.

For purposes of intensive study, the members of the Commission were assigned to seven small subcommittees. The subcommittee titles indicate the subject-matter with which each was concerned:

- I. Organization and General Scope of Roles of State Board of Elections, County Boards of Elections, and Precinct Election Officials
Representative M. Glenn Pickard
Senator Oral L. Yates
Mr. J. Max Thomas
- II. Registration of Voters—Procedure and Qualifications
Mr. Thomas and Senator Yates
- III. Primary Law and Procedure
Senator William Z. Wood
Mr. G. Fred Steele, Jr.
- IV. General Election Law and Procedure
Mr. Steele and Senator Wood
- V. Voting Machines and Their Use
Mr. William C. Reeves
Representative J. Thurston Arledge
- VI. Absentee Voting—Civilian and Military
Representative Arledge and Mr. Reeves
- VII. Corrupt Practices Act and Other Crimes in Connection with Elections
Senator Yates, with the assistance of
Mr. James F. Bullock, Assistant Attorney General

The subcommittee system permitted the Commission to give careful review to all parts of Chapter 163 of the General Statutes, and to the suggestions received from county election board chairmen and others. This study revealed the following major difficulties with the existing election laws:

Various segments of the primary and election laws were enacted many years apart without a careful review of laws already on the books.

Many sections, often scattered through widely-separated portions of the election laws, deal with the same subject or procedure, often raising serious problems of interpretation.

Certain terms are used in different parts of the law to mean different things; there are no plain definitions.

In a number of instances certain portions of the present election laws are in direct conflict with other portions.

A number of sections are dated and are now obsolete; they clutter up the chapter and mislead the user.

Each subcommittee submitted working drafts recodifying the statutes in its area of special concern to correct the difficulties listed. The subcommittee drafts were then reviewed, analyzed, and amended by the full Commission.

The Recodification

As directed by Resolution 71, the Commission has drafted the legislation necessary to recodify the primary and general election laws of this State. The draft has been prepared in the form of a bill for introduction in the General Assembly and constitutes Part II of this Report.

Explanatory Annotations

Attached as Part III of this Report is a detailed explanation of how the Commission's proposed recodification disposes of each section now found in Chapter 163 of the General Statutes. To assist members of the General Assembly, election officials, and the interested public trace the course of each section of the existing election laws into the recodification, two techniques have been employed:

1. An index has been prepared which provides a convenient means for tracing the whereabouts of each section of present Chapter 163 in the recodification.
2. Each section in the recodification has been annotated to explain the ways in which its form, language, and substance vary from its antecedents.

Supplemental Comments

Fixed in their understanding that they had not been called upon by Resolution 71 to write new law, the Commission members nevertheless

believe that certain ideas and suggestions derived from their study should be submitted to the legislature for whatever action it may see fit to take. These comments form Part IV of this Report.

Respectfully submitted,

Appointed by the Governor

WILLIAM C. REEVES

G. FRED STEELE, JR.

J. MAX THOMAS, *Vice-Chairman*

Appointed by the Speaker of
the House of Representatives

J. THURSTON ARLEDGE

M. GLENN PICKARD

Appointed by the
Lieutenant Governor

WILLIAM Z. WOOD

ORAL L. YATES, *Chairman*

PART II

BILL EMBODYING COMMISSION'S RECODIFICATION OF THE PRIMARY AND GENERAL ELECTION LAWS OF NORTH CAROLINA

The Commission submits the following draft of a bill to rewrite and recodify Chapter 163 of the General Statutes of North Carolina:

A BILL TO BE ENTITLED AN ACT TO RECODIFY CHAPTER 163 OF THE GENERAL STATUTES OF NORTH CAROLINA ENTITLED "ELEC- TIONS AND ELECTION LAWS."

The General Assembly of North Carolina do enact:

Section 1. Chapter 163 of the General Statutes, entitled "Elections and Election Laws," is hereby rewritten, and there is hereby inserted in the General Statutes a new chapter to read as follows:

SUBCHAPTER I. TIME OF PRIMARIES AND ELECTIONS

ARTICLE 1.

Time of Primaries and Elections.

§163-1. Time of regular elections and primaries.—(a) Unless otherwise provided by law, elections for the offices listed in the tabulation contained in this section shall be conducted in all election precincts of the territorial units specified in the column headed "Jurisdiction" on the dates indicated in the column headed "Date of Election." Unless otherwise provided by law, officers shall serve for the terms specified in the column headed "Term of office."

(b) On the last Saturday in May preceding each general election to be held in November for the offices tabulated in subsection (a) of this section, there shall be held in all election precincts within the territory for which the officers are to be elected a primary election for the purpose of nominating candidates for each political party in the State for those offices.

(c) On Tuesday next after the first Monday in November in the year 1968, and every four years thereafter, or on such days as the Congress of the United States shall direct, an election shall be held in all of the election precincts of the State for the election of electors of President and Vice President of the United States. The number of electors to be chosen shall be equal to the number of Senators and Representatives in Congress to which this State may be entitled. Presidential electors shall not be nominated by primary election; instead, they shall be nominated in a State convention of each political party as defined in §163-96 unless otherwise provided by the plan of organization of the political party. One presidential elector shall be nominated from each congressional district and two from the State at large.

<i>Office</i>	<i>Jurisdiction</i>	<i>Date of Election</i>	<i>Term of Office</i>
Governor	State	Tuesday next after the first Monday in November 1968 and every four years thereafter	Four years, from first day of January next after election
Lieutenant Governor	State	Tuesday next after the first Monday in November 1968 and every four years thereafter	Four years, from first day of January next after election
Secretary of State	State	Tuesday next after the first Monday in November 1968 and every four years thereafter	Four years, from first day of January next after election
Auditor	State	Tuesday next after the first Monday in November 1968 and every four years thereafter	Four years, from first day of January next after election
Treasurer	State	Tuesday next after the first Monday in November 1968 and every four years thereafter	Four years, from first day of January next after election
Superintendent of Public Instruction	State	Tuesday next after the first Monday in November 1968 and every four years thereafter	Four years, from first day of January next after election
Attorney General	State	Tuesday next after the first Monday in November 1968 and every four years thereafter	Four years, from first day of January next after election
Commissioner of Agriculture	State	Tuesday next after the first Monday in November 1968 and every four years thereafter	Four years, from first day of January next after election
Commissioner of Labor	State	Tuesday next after the first Monday in November 1968 and every four years thereafter	Four years, from first day of January next after election
Commissioner of Insurance	State	Tuesday next after the first Monday in November 1968 and every four years thereafter	Four years, from first day of January next after election

<i>Office</i>	<i>Jurisdiction</i>	<i>Date of Election</i>	<i>Term of Office</i>
All other State officers whose terms last for four years	State	Tuesday next after the first Monday in November 1968 and every four years thereafter	Four years, from first day of January next after election
All other State officers whose terms are not specified by law	State	Tuesday next after the first Monday in November 1968 and every two years thereafter	Two years, from first day of January next after election
State Senator	Senatorial district	Tuesday next after the first Monday in November 1968 and every two years thereafter	Two years
Member of State House of Representatives	Representative district	Tuesday next after the first Monday in November 1968 and every two years thereafter	Two years
Justices of the Supreme Court	State	At the regular election for members of the General Assembly immediately preceding the termination of each regular term	Eight years, from first day of January next after election
Judges of the Superior Courts	State	At the regular election for members of the General Assembly immediately preceding the termination of each regular term	Eight years, from first day of January next after election
Judges of the District Courts	District court district	At the regular election for members of the General Assembly immediately preceding the termination of each regular term	Four years, from the first Monday in December next after election
Solicitors	Solicitorial district	At the regular election for members of the General Assembly immediately preceding the termination of each regular term	Four years, from first day of January next after election

<i>∞</i> Office	Jurisdiction	Date of Election	Term of Office
Members of House of Representatives of the Congress of the United States	Congressional district, except as modified by §163-202	Tuesday next after the first Monday in November 1968 and every two years thereafter	Two years
United States Senators	State	At the regular election for Governor immediately preceding the termination of each regular term	Six years
County Commissioners	County	At the regular election for members of the General Assembly immediately preceding the termination of each regular term	Two years, from the first Monday in December next after election
Clerk of Superior Court	County	At the regular election for members of the General Assembly immediately preceding the termination of a regular term	Four years, from the first Monday in December next after election
Register of Deeds	County	At the regular election for members of the General Assembly immediately preceding the termination of a regular term	Four years, from the first Monday in December next after election
Sheriff	County	At the regular election for members of the General Assembly immediately preceding the termination of a regular term	Four years, from the first Monday in December next after election
Coroner	County	At the regular election for members of the General Assembly immediately preceding the termination of a regular term	Four years, from the first Monday in December next after election

<i>Office</i>	<i>Jurisdiction</i>	<i>Date of Election</i>	<i>Term of Office</i>
County Treasurer (in counties in which elected)	County	Tuesday next after the first Monday in November 1968 and every two years thereafter	Two years, from the first Monday in December next after election
All other county officers to be elected by the people	County	Tuesday next after the first Monday in November 1968 and every two years thereafter	Two years, from the first Monday in December next after election
Constable	Township	Tuesday next after the first Monday in November 1968 and every two years thereafter	Two years, from the first Monday in December next after election
Justice of the Peace (in counties in which elected)	Township	Tuesday next after the first Monday in November 1968 and every two years thereafter	Two years, from the first Monday in December next after election
All other township officers to be elected by the people	Township	Tuesday next after the first Monday in November 1968 and every two years thereafter	Two years, from the first Monday in December next after election

§163-2. Hours of primaries and elections.—In all primaries, general elections, special elections, and referenda held in this State, including those held in and for municipalities, the polls shall be opened at six-thirty, a.m., and shall be closed at six-thirty, p.m.: Provided, however, that at voting places at which voting machines are used the responsible county board of elections may permit the polls to be closed at seven-thirty, p.m. All times specified in this section shall be interpreted as referring to Eastern Standard Time.

§163-3 through §163-7 reserved for future use.

ARTICLE 2.

Time of Elections to Fill Vacancies.

§163-8. Filling vacancies in State executive offices.—If the office of Governor or Lieutenant Governor shall become vacant, the provisions of §147-11.1 shall apply. If the office of any of the following officers shall be vacated by death, resignation, or otherwise than by expiration of term, it shall be the duty of the Governor to appoint another to serve until his successor is elected and qualified:

Secretary of State,
Auditor,
Treasurer,
Superintendent of Public Instruction,
Attorney General,
Commissioner of Agriculture,
Commissioner of Labor, and
Commissioner of Insurance.

Each such vacancy shall be filled by election at the first election for members of the General Assembly that occurs more than thirty (30) days after the vacancy has taken place, and the person chosen shall hold the office for the remainder of the unexpired four-year term: Provided, that when a vacancy occurs in any of the offices named in this section and the term expires on the first day of January succeeding the next election for members of the General Assembly, the Governor shall appoint to fill the vacancy for the unexpired term of the office.

Upon the occurrence of a vacancy in the office of any one of these officers for any of the causes stated in the preceding paragraph, the Governor may appoint an acting officer to perform the duties of that office until a person is appointed or elected pursuant to this section and Section 13, Article III, of the State Constitution, to fill the vacancy and is qualified.

§163-9. Filling vacancies in State and district judicial offices.—Vacancies occurring in the offices of justice of the Supreme Court and judge of the superior court for causes other than expiration of term shall be filled by appointment of the Governor. An appointee shall hold his place until the next election for members of the General Assembly that is held more than thirty (30) days after the vacancy occurs, at which time an election shall be held to fill the unexpired term of the office: Provided, that when the unexpired term of the office in which the vacancy has occurred expires on the first day of January succeeding the next election for members of the General Assembly, the Governor shall appoint to fill that vacancy for the unexpired term of the office.

Vacancies in the office of district judge which occur before the expiration

of a term shall not be filled by election. Instead, such a vacancy shall be filled for the unexpired term by appointment of the Governor from nominations submitted by the bar of the judicial district in which the vacancy occurs. If the district bar fails to submit nominations within two weeks from the date the vacancy occurs, the Governor may appoint to fill the vacancy without waiting for nominations.

§163-10. Filling vacancy in office of solicitor.—Any vacancy occurring in the office of solicitor for causes other than expiration of term shall be filled by appointment of the Governor. An appointee shall hold his place until the next election for members of the General Assembly that is held more than thirty (30) days after the vacancy occurs, at which time an election shall be held to fill the unexpired term of the office: Provided, that when the unexpired term of the office in which the vacancy has occurred expires on the first day of January succeeding the next election for members of the General Assembly, the Governor shall appoint to fill that vacancy for the unexpired term of the office.

§163-11. Filling vacancies in the General Assembly.—If a vacancy shall occur in the General Assembly by death, resignation, or otherwise than by expiration of term, the Governor shall immediately appoint for the unexpired part of the term the person recommended by the county executive committee of the political party with which the vacating member was affiliated when elected, it being the party executive committee of the county in which he was resident.

§163-12. Filling vacancy in United States Senate.—Whenever there shall be a vacancy in the office of United States Senator from this State, whether caused by death, resignation, or otherwise than by expiration of term, the Governor shall appoint to fill the vacancy until an election shall be held to fill the office. The Governor shall issue his writ for the election of a Senator to be held at the time of the first election for members of the General Assembly that is held more than thirty (30) days after the vacancy occurs. The person elected shall hold the office for the remainder of the unexpired term. The election shall take effect from the date of the canvassing of the returns.

§163-13. Filling vacancy in United States House of Representatives.—

(a) *Special election:* If at any time after expiration of any Congress and before another election, or if at any time after an election, there shall be a vacancy in this State's representation in the House of Representatives of the United States Congress, the Governor shall issue a writ of election, and by proclamation fix the date on which an election to fill the vacancy shall be held in the appropriate congressional district.

(b) *Nominating procedures:* If a Congressional vacancy occurs within eight months preceding the next succeeding general election, candidates for the special election to fill the vacancy shall not be nominated in primaries. Instead, nominations may be made by the political party congressional district executive committees in the district in which the vacancy occurs. The chairman and secretary of each political party congressional district executive committee nominating a candidate shall immediately certify his name and party affiliation to the State Board of Elections so that it may be printed on the special election ballots.

If the Congressional vacancy occurs more than eight months prior to the next succeeding general election, the Governor shall call a special primary for the purpose of nominating candidates to be voted on in a special election

called by the Governor in accordance with the provisions of subsection (a) of this section. Such a primary election shall be conducted in accordance with the general laws governing primaries, except that the closing date for filing notices of candidacy with the State Board of Elections shall be fixed by the Governor in his call for the special primary.

§163-14 through §163-18 reserved for future use.

SUBCHAPTER II.

ELECTION OFFICERS

ARTICLE 3.

State Board of Elections.

§163-19. State Board of Elections; appointment; term of office; vacancies; oath of office.—All of the terms of office of the present members of the State Board of Elections shall expire on May 1, 1969, or when their successors in office are appointed and qualified.

The State Board of Elections shall consist of five registered voters whose terms of office shall begin on May 1, 1969, and shall continue for four years, and until their successors are appointed and qualified. The Governor shall appoint the members of this Board and likewise shall appoint their successors every four years at the expiration of each four-year term. Not more than three members of the Board shall be members of the same political party.

Any vacancy occurring in the Board shall be filled by the Governor, and the person so appointed shall fill the unexpired term.

At the first meeting held after new appointments are made, the members of the State Board of Elections shall take the following oath:

I, , do solemnly swear (or affirm) that I will support the Constitution of the United States; that I will be faithful and bear true allegiance to the State of North Carolina, and to the constitutional powers and authorities which are or may be established for the government thereof; that I will endeavor to support, maintain and defend the Constitution of said State; and that I will well and truly execute the duties of the office of Member of the State Board of Elections according to the best of my knowledge and ability, according to law; so help me, God.

After taking the prescribed oath, the Board shall organize by electing one of its members chairman and another secretary.

§163-20. Meetings of Board; quorum; minutes.—The State Board of Elections shall meet at the call of the chairman whenever necessary to discharge the duties and functions imposed upon it by this chapter. The Board shall meet at such times and places in the City of Raleigh as the chairman may appoint unless required to meet elsewhere under the provisions of §163-23.

The chairman of the State Board of Elections shall call a meeting of the Board upon the application in writing of any two members thereof. If there be no chairman, or if the chairman does not call a meeting after receiving a written request from two members, any three members of the Board shall have power to call a meeting of the Board, and any duties imposed or powers conferred by this chapter may be performed or exercised at that meeting, although the time for performing or exercising the same prescribed by this chapter may have expired.

A majority of the members shall constitute a quorum for the transaction of Board business. If at any meeting any member of the Board shall fail to attend, and by reason thereof there is a failure of a quorum, the members attending shall adjourn from day to day, for not more than three days, at the end of which time, if there should be no quorum, the Governor may remove the members failing to attend summarily and appoint their successors.

The State Board of Elections shall keep minutes recording all proceedings and findings at each of its meetings. The minutes shall be recorded in a book which shall be kept in the office of the Board in Raleigh.

§163-21. Compensation of Board members.—The members of the State Board of Elections shall be compensated for the time they are actually engaged in the discharge of their duties and for their traveling and other expenses necessary and incidental to the discharge of their duties in accordance with the provisions of Chapter 138 of the General Statutes.

§163-22. Powers and duties of State Board of Elections.—(a) The State Board of Elections shall have general supervision over the primaries and elections in the State, and it shall have authority to make such reasonable rules and regulations with respect to the conduct of primaries and elections as it may deem advisable so long as they do not conflict with any provisions of this chapter.

(b) From time to time, the Board shall publish and furnish to the county boards of elections and other election officials a sufficient number of indexed copies of all election laws and Board rules and regulations then in force. It shall also publish, issue, and distribute to the electorate such materials explanatory of primary and election laws and procedures as the Board shall deem necessary.

(c) The State Board of Elections shall appoint, in the manner provided by law, all members of the county boards of elections and advise them as to the proper methods of conducting primaries and elections. The Board shall require such reports from the county boards and election officers as are provided by law, or as are deemed necessary by the Board, and shall compel observance of the requirements of the election laws by county boards of elections and other election officers. In performing these duties, the Board shall have the right to hear and act on complaints arising by petition or otherwise, on the failure or neglect of a county board of elections to comply with any part of the election laws imposing duties upon such a board. The State Board of Elections shall have power to remove from office any member of a county board of elections for incompetency, neglect or failure to perform duties, fraud, or for any other satisfactory cause. Before exercising this power, the State Board shall notify the county board member affected and give him an opportunity to be heard. When any county board member shall be removed by the State Board of Elections, the vacancy occurring shall be filled by the State Board of Elections.

(d) The State Board of Elections shall investigate when necessary or advisable, the administration of election laws, frauds and irregularities in elections in any county, and shall report violations of the election laws to the Attorney General or solicitor or prosecutor of the district for further investigation and prosecution.

(e) The State Board of Elections shall determine, in the manner provided by law, the form and content of ballots, instruction sheets, poll books,

tally sheets, abstract and return forms, certificates of election, and other forms to be used in primaries and elections. The Board shall furnish to the county boards of elections registration and poll books, cards, blank forms, instruction sheets, and forms necessary for the registration of voters and for holding primaries and elections in the counties. In the preparation and distribution of ballots, poll books, abstract and return forms, and all other forms, the State Board of Elections shall call to its aid the Attorney General of the State, and it shall be the duty of the Attorney General to advise and aid in the preparation of these books, ballots, and forms.

(f) The State Board of Elections shall prepare, print, and distribute to the county boards of elections all ballots for use in any primary or election held in the State which the law provides shall be printed and furnished by the State to the counties. The Board shall instruct the county boards of elections as to the printing of county and local ballots.

(g) The State Board of Elections shall certify to the appropriate county boards of elections the names of candidates for district offices who have filed notice of candidacy with the Board and whose names are required to be printed on county ballots.

(h) It shall be the duty of the State Board of Elections to tabulate the primary and election returns, to declare the results, and to prepare abstracts of the votes cast in each county in the State for offices which, according to law, shall be tabulated by the Board.

(i) The State Board of Election shall make such recommendations to the Governor and legislature relative to the conduct and administration of the primaries and elections in the State as it may deem advisable.

§163-23. Powers of chairman in execution of Board duties.—In the performance of the duties enumerated in §163-22, the chairman of the State Board of Elections shall have power to administer oaths, issue subpoenas, summon witnesses, compel the production of papers, books, records and other evidence. He shall also have power to fix the time and place for hearing any matter relating to the administration and enforcement of the election laws: Provided, however, the place of hearing shall be the county in which the irregularities are alleged to have been committed.

§163-24. Power of State Board of Elections to maintain order.—The State Board of Elections shall possess full power and authority to maintain order, and to enforce obedience to its lawful commands during its sessions, and shall be constituted an inferior court for that purpose. If any person shall refuse to obey the lawful commands of the State Board of Elections, or by disorderly conduct in its hearing or presence shall interrupt or disturb its proceedings, it may, by an order in writing, signed by its chairman, and attested by its secretary, commit the person so offending to the common jail of the county for a period not exceeding thirty days. Such order shall be executed by any sheriff or constable to whom the same shall be delivered, or if a sheriff or constable shall not be present, or shall refuse to act, by any other person who shall be deputed by the State Board of Elections in writing, and the keeper of the jail shall receive the person so committed and safely keep him for such time as shall be mentioned in the commitment: Provided, that any person committed under the provisions of this section shall have the right to post a two hundred dollar (\$200.00) bond with the clerk of the superior court and appeal to the superior court for a trial on the merits of his commitment.

§163-25 through §163-29 reserved for future use.

ARTICLE 4.

County Board of Elections.

§163-30. County boards of elections; appointments; term of office; qualifications; vacancies; oath of office.—In every county of the State there shall be a county board of elections to consist of three persons of good moral character, who are registered voters in the county in which they are to act. Members of county boards of elections shall be appointed by the State Board of Elections on the Friday before the tenth Saturday preceding each primary election, and their terms of office shall continue for two years from the specified date of appointment and until their successors are appointed and qualified. Not more than two members of the county board of elections shall belong to the same political party.

No person shall serve as a member of the county board of elections who holds any elective public office or who is a candidate for any office in the primary or election.

No person, while acting as a member of a county board of elections, shall serve as a county campaign manager of any candidate in a primary or election.

The State chairman of each political party shall have the right to recommend to the State Board of Elections three registered voters in each county for appointment to the board of elections for that county. If such recommendations are received by the Board fifteen or more days before the tenth Saturday before the primary is to be held, it shall be the duty of the State Board of Elections to appoint the county boards from the names thus recommended.

Whenever a vacancy occurs in the membership of a county board of elections for any cause other than removal by the State Board of Elections, the State chairman of the political party of the vacating member shall have the right to recommend two registered voters of the affected county for such office, and it shall be the duty of the State Board of Elections to fill the vacancy from the names thus recommended.

At the meeting of the county board of elections required by §163-31 to be held on the ninth Saturday before the primary, the members shall take the following oath of office.

I,, do solemnly swear (or affirm) that I will support the Constitution of the United States; that I will be faithful and bear true allegiance to the State of North Carolina, and to the constitutional powers and authorities which are or may be established for the government thereof; that I will endeavor to support, maintain and defend the Constitution of said State, not inconsistent with the Constitution of the United States; and that I will well and truly execute the duties of the office of Member of the County Board of Elections to the best of my knowledge and ability, according to law; so help me, God.

§163-31. Meetings of county boards of elections; quorum; minutes.—In each county of the State the members of the county board of elections shall meet at the courthouse or board office at noon on the ninth Saturday before each primary election and, after taking the oath of office provided in §163-30, they shall organize by electing one member chairman and another member secretary of the county board of elections. On the seventh Saturday before each primary election the county board of elections shall meet and appoint precinct registrars and judges of elections. The board may hold other meetings at such times and places as the chairman of the board, or

any two members thereof, may direct, for the performance of duties prescribed by law. A majority of the members shall constitute a quorum for the transaction of board business.

The county board of elections shall keep minutes recording all proceedings and findings at each of its meetings. The minutes shall be recorded in a book which shall be kept in the board office if there be one, otherwise, the minute book shall remain in the custody of the secretary of the board.

§163-32. Compensation of members of county boards of elections.—In full compensation for their services, members of the county board of elections (including the chairman) shall be paid by the county fifteen dollars (\$15.00) per day for the time they are actually engaged in the discharge of their duties, together with reimbursement for expenditures necessary and incidental to the discharge of their duties. In its discretion, the board of county commissioners of any county may pay the chairman of the county board of elections compensation in addition to the per diem and expense allowance provided in this paragraph.

Counties which adopt full-time and permanent registration shall not be bound by the provisions of the preceding paragraph; in such counties the compensation of members of the county board of elections (including the chairman) shall be determined by the board of county commissioners.

In all counties the board of elections shall pay its clerk, assistant clerks, and other employees such compensation as it shall fix within budget appropriations. Counties which adopt full-time and permanent registration shall have authority to pay executive secretaries and special registration commissioners whatever compensation they may fix within budget appropriations.

§163-33. Powers and duties of county boards of elections.—The county boards of elections within their respective jurisdictions shall exercise all powers granted to such boards in this chapter, and they shall perform all the duties imposed upon them by law, which shall include the following:

(a) To make and issue such rules, regulations, and instructions, not inconsistent with law or the rules established by the State Board of Elections, as it may deem necessary for the guidance of election officers and voters.

(b) To appoint all registrars, judges, assistants, and other officers of elections, and designate the precinct in which each shall serve; and, after notice and hearing, to remove any registrar, judge of elections, assistant, or other officer of election appointed by it for incompetency, failure to discharge the duties of office, failure to qualify within the time prescribed by law, fraud, or for any other satisfactory cause.

(c) To investigate irregularities, nonperformance of duties, and violations of laws by election officers and other persons, and to report violations to the prosecuting authorities; in connection with any such investigation, to administer oaths, issue subpoenas, summon witnesses, and compel the production of books, papers, records, and other evidence.

(d) As provided in §163-128, to establish, define, provide, rearrange, discontinue, and combine election precincts as it may deem expedient, and to fix and provide for places of registration and for holding primaries and elections.

(e) To review, examine, and certify the sufficiency and validity of petitions and nomination papers.

(f) To advertise and contract for the printing of ballots and other sup-

plies used in registration and elections; and to provide for the delivery of ballots, poll books, and other required papers and materials to the polling places.

(g) To provide for the purchase, preservation, and maintenance of voting booths, ballot boxes, registration and poll books, maps, flags, cards of instruction, and other forms, papers, and equipment used in registration, nominations, and elections; and to cause the polling places to be suitably provided with voting booths and other supplies required by law.

(h) To provide for the issuance of all notices, advertisements, and publications concerning elections required by law.

(i) To receive the returns of primaries and elections, canvass the returns, make abstracts thereof, transmit such abstracts to the proper authorities, and to issue certificates of election to county officers and members of the General Assembly, except those elected in districts composed of more than one county.

(j) To appoint and remove the board's clerk, assistant clerks, and other employees.

(k) To prepare and submit to the proper appropriating officers a budget estimating the cost of elections for the ensuing fiscal year.

(l) To perform such other duties as may be prescribed by this chapter or the rules of the State Board of Elections.

§163-34. Power of county board of elections to maintain order.—Each county board of elections shall possess full power and authority to maintain order, and to enforce obedience to its lawful commands during its sessions, and shall be constituted an inferior court for that purpose. If any person shall refuse to obey the lawful commands of any county board of elections, or by disorderly conduct in its hearing or presence shall interrupt or disturb its proceedings, it may, by an order in writing, signed by its chairman, and attested by its secretary, commit the person so offending to the common jail of the county for a period not exceeding thirty days. Such order shall be executed by any sheriff or constable to whom the same shall be delivered, or if a sheriff or constable shall not be present, or shall refuse to act, by any other person who shall be deputed by the county board of elections in writing, and the keeper of the jail shall receive the person so committed and safely keep him for such time as shall be mentioned in the commitment: Provided, that any person committed under the provisions of this section shall have the right to post a two hundred dollar (\$200.00) bond with the clerk of the superior court and appeal to the superior court for a trial on the merits of his commitment.

§163-35. Executive secretary to county board of elections in county having full-time and permanent registration.—In counties which adopt full-time and permanent registration the county board of elections shall have the power, by majority vote, to appoint an executive secretary to serve at the will of the board. No person shall serve as an executive secretary who holds any elective public office or who is a candidate for any office in a primary or election, or who holds an official position with any political party.

The county board of elections shall have authority, by resolution adopted by majority vote, to delegate to its executive secretary so much of the administrative detail of the election functions, duties, and work of the board, its officers and members, as is now, or may hereafter be, vested in it or them as the county board of elections may see fit: Provided, that the board shall not delegate to an executive secretary any of its quasi-judicial

or policy-making duties and authority. Within the limitations imposed upon him by the resolution of the county board of elections, the acts of a properly appointed executive secretary shall be deemed to be the acts of the county board of elections, its officers and members.

§163-36 through §163-40 reserved for future use.

ARTICLE 5.

Precinct Election Officials.

§163-41. Precinct registrars and judges of election; special registration commissioners; appointment; terms of office; qualifications; vacancies; oaths of office.— (a) *Appointment of registrar and judges.* At the meeting required by §163-31 to be held on the seventh Saturday before each primary election, the county board of elections shall appoint one person to act as registrar and two other persons to act as judges of election for each precinct in the county. Their terms of office shall continue for two years from the specified date of appointment and until their successors are appointed and qualified. It shall be their duty to conduct the primaries and elections within their respective precincts. Persons appointed to these offices must be registered voters and residents of the precinct for which appointed, of good repute, and able to read and write. Not more than one judge in each precinct shall belong to the same political party as the registrar, provided, however, that in a primary election in which only one political party participates all of the precinct officials shall be chosen from that party. For purposes of this section, the second primary provided for in §163-111 shall be considered part of the first primary and not a separate primary election.

No person holding any office or place of trust or profit under the government of the United States, or of the State of North Carolina, or any political subdivision thereof, shall be eligible to appointment as a precinct election official: Provided that nothing herein contained shall extend to officers in the militia, notaries public, commissioners of public charities, or commissioners for special purposes.

No person who is a candidate for nomination or election shall be eligible to serve as a registrar or judge of election.

The chairman of each political party in the county shall have the right to recommend from three to five registered voters in each precinct, who are residents of the precinct, and who have good moral character and are able to read and write, for appointment as registrar and judges of election in that precinct. If such recommendations are received by the county board of elections before the seventh Saturday before the primary is to be held, it may make precinct appointments from the names thus recommended, although it shall not be required to do so.

If, at any time other than on the day of a primary or election, a registrar or judge of election shall be removed from office, or shall die or resign, or if for any other cause there be a vacancy in a precinct election office, the chairman of the county board of elections shall appoint another in his place, promptly notifying him of his appointment. In filling such a vacancy, the chairman shall appoint a person who belongs to the same political party as that to which the vacating member belonged when appointed.

If any person appointed registrar shall fail to be present at the voting place at the hour of opening the polls on primary or election day, or if a vacancy in that office shall occur on primary or election day, for any reason whatever, the precinct judges of election shall appoint another to act as

registrar until such time as the chairman of the county board of elections shall appoint to fill the vacancy. If a judge of election shall fail to be present at the voting place at the hour of opening the polls on primary or election day, or if a vacancy in that office shall occur on primary or election day for any reason whatever, the registrar shall appoint another to act as judge until such time as the chairman of the county board of elections shall appoint to fill the vacancy. Persons appointed to fill vacancies shall, whenever possible, be chosen from the same political party as the person whose vacancy is being filled, and all such appointees shall be sworn before acting.

Before entering upon his duties each registrar shall take and subscribe the following oath of office to be administered by an officer authorized to administer oaths and file it with the county board of elections:

I,, do solemnly swear (or affirm) that I will support the Constitution of the United States; that I will be faithful and bear true allegiance to the State of North Carolina, and to the constitutional powers and authorities which are or may be established for the government thereof; that I will endeavor to support, maintain and defend the Constitution of said State, not inconsistent with the Constitution of the United States; that I will administer the duties of my office as registrar of precinct, County, without fear or favor; that I will not in any manner request or seek to persuade or induce any voter to vote for or against any particular candidate or proposition; and that I will not keep or make any memorandum of anything occurring within a voting booth, unless I am called upon to testify in a judicial proceeding for a violation of the election laws of this State; so help me, God.

Before the opening of the polls on the morning of the primary or election, the registrar shall administer the oath set out in the preceding paragraph to each judge of election and assistant, substituting for the word "registrar" the words "judge of elections in" or "assistant in," whichever is appropriate.

(b) *Appointment of special registration commissioners.* In counties which adopt full-time and permanent registration the county board of elections may, in addition to registrars, select persons of good repute to act as special registration commissioners. Persons appointed as registration commissioners shall serve for two years, but their authority may be terminated by the county board of elections at any time without cause.

In counties which adopt full-time and permanent registration the chairman of each political party shall have the right to recommend registered voters who are residents of the county for appointment as special registration commissioners. If such recommendations are received by the county board of elections before the seventh Saturday before the primary is to be held, that board may make appointments from the names thus recommended, although it shall not be required to do so.

Before entering upon his duties each special registration commissioner shall take and subscribe the following oath of office to be administered by an officer authorized to administer oaths and file it with the county board of elections:

I,, do solemnly swear (or affirm) that I will support the Constitution of the United States; that I will be faithful and bear true allegiance to the State of North Carolina, and to the constitutional powers and authorities which are or may be established for the government thereof; that I will endeavor to support, maintain and defend the Constitution of said State, not inconsistent with the Constitution of the United

States; that I will administer the duties of my office as special registration commissioner for County without fear or favor, to the best of my knowledge and ability, according to law; so help me, God.

(c) *Publication of names of precinct officials.* Immediately after appointing registrars, judges, and special registration commissioners as herein provided, the county board of elections shall publish the names of the persons appointed in some newspaper having general circulation in the county or, in lieu thereof, at the courthouse door, and shall notify each person appointed of his appointment, either by letter or by having a notice served upon him by the sheriff.

§163-42. Assistants at polls; appointment; term of office; qualifications; oath of office.—Within the limits set by this section, the county board of elections shall have authority to appoint an assistant or assistants for each precinct within the county to aid the registrar and judges. Assistants shall, in all cases, be qualified voters of the precinct for which appointed. No other assistants shall be appointed for any precinct. Assistants serve for the primary or election for which appointed and no longer.

No person who is a candidate for nomination or election shall be eligible to serve as an assistant.

In a precinct in which voting machines are not used, the county board of elections may appoint one assistant for each three hundred voters registered in that precinct. In a precinct in which voting machines are used, the board may appoint one assistant for each five hundred voters registered in that precinct.

Before entering upon the duties of his office, each assistant shall take the oath prescribed in §163-41 to be administered by the registrar of the precinct for which the assistant is appointed.

§163-43. Ballot counters; appointment; qualifications; oath of office.—The county board of elections of any county may authorize the use of precinct ballot counters to aid the registrars and judges of election in the counting of ballots in any precinct or precincts within the county. The county board of elections shall appoint the ballot counters it authorizes for each precinct or, in its discretion, the board may delegate authority to make such appointments to the precinct registrar, specifying the number of ballot counters to be appointed for each precinct.

Upon acceptance of appointment, each ballot counter shall appear before the precinct registrar at the voting place immediately at the close of the polls on the day of the primary or election and take the following oath to be administered by the registrar:

I,, do solemnly swear (or affirm) that I will support the Constitution of the United States; that I will be faithful and bear true allegiance to the State of North Carolina, and to the constitutional powers and authorities which are or may be established for the government thereof; that I will endeavor to support, maintain and defend the Constitution of said State, not inconsistent with the Constitution of the United States; that I will honestly discharge the duties of ballot counter in precinct, County, for the primary (or election) held this day, and that I will fairly and honestly tabulate the votes cast in said primary (or election); so help me, God.

The names and addresses of all ballot counters serving in any precinct, whether appointed by the county board of elections or by the registrar, shall

be reported by the registrar to the county board of elections at the county canvass following the primary or election.

§163-44. Markers for general elections; appointment; qualifications; oath of office.—Before each general election, a sufficient number of markers, whose duty it shall be to assist voters in the preparation of their ballots, shall be appointed for each precinct. The appointments shall be made by the county board of elections in consultation with the precinct registrar. In appointing markers, fair representation shall be given to each political party whose candidates appear upon the ballot. To this end, not more than ten days before any election, the chairman of each political party in the county shall have the right to recommend not fewer than ten registered voters in each precinct for appointment as markers to represent the party at the election in the precinct. All markers shall be appointed from the names thus recommended.

Persons appointed as markers must be registered voters and residents of the precinct for which appointed, of good moral character, and able to read and write. Elected officers and candidates for elective office shall be ineligible to serve as markers, but all other governmental employees shall be eligible to serve as markers.

Before the opening of the polls on the morning of the election, the registrar shall administer the following oath to each marker:

I,, do solemnly swear (or affirm) that I will support the Constitution of the United States; that I will be faithful and bear true allegiance to the State of North Carolina, and to the constitutional powers and authorities which are or may be established for the government thereof; that I will endeavor to support, maintain and defend the Constitution of said State, not inconsistent with the Constitution of the United States; that I will administer the duties of my office as marker in Precinct, County, to the best of my knowledge and ability; that I will not in any manner request or seek to persuade or induce any voter to vote for or against any particular candidate or proposition; and that I will not keep or make any memorandum of anything occurring within the voting booth, and will not disclose the same, unless I am called upon to testify in a judicial proceeding for a violation of the election laws of this State; so help me, God.

The provisions of this section shall not apply to primary elections, nor shall they apply to counties which adopt full-time and permanent registration.

§163-45. Watchers; appointment.—The chairman of each political party in the county shall have the right to appoint two watchers to attend each voting place at each primary and election: Provided, that in a primary this right shall not extend to the chairman of a political party unless that party is participating in the primary. In any election in which an independent candidate is named on the ballot, he or his campaign manager shall have the right to appoint two watchers for each voting place. Watchers serve also as challengers. Persons appointed as watchers must be registered voters of the precinct for which appointed and must have good moral character. Watchers shall take no oath of office.

Individuals authorized to appoint watchers must submit in writing to the registrar of each precinct a signed list of the watchers appointed for that precinct. The registrar and judges of election for the precinct may for good cause reject any appointee and require that another be appointed.

A watcher shall do no electioneering at the voting place, and he shall in no manner impede the voting process or interfere or communicate with or observe any voter in casting his ballot, but, subject to these restrictions, the

registrar and judges of elections shall permit him to make such observation and take such notes as he may desire.

The provisions of this section shall not apply to counties which adopt full-time and permanent registration.

§163-46. Compensation of precinct officials and assistants.—The precinct registrar shall be paid the sum of fifteen dollars (\$15.00) per day for his services on the day of a primary or election and for each Saturday during the period of registration that he attends the voting place for the purpose of registering voters. Judges of election and assistants shall each be paid for their services on the day of a primary or election the sum of ten dollars (\$10.00). Registrars and judges of election shall be paid at the per diem rate specified above for attending any meeting called by the chairman of the county board of elections relating to their duties in any primary or election. A person appointed to serve as registrar or judge of election when a previously appointed registrar or judge fails to appear at the voting place or leaves his post on the day of an election or primary shall be paid the same compensation as a registrar or judge appointed prior to that date. In its discretion, the board of commissioners of any county may provide funds with which the county board of elections may pay registrars, judges, and assistants compensation in addition to the per diem provided in this section. Ballot counters, markers, and watchers shall be paid no compensation for their services.

Counties which adopt full-time and permanent registration shall not be bound by the provisions of the preceding paragraph; in such counties the compensation of precinct registrars, judges of election, assistants, and ballot counters shall be determined by the county board of elections within budget appropriations.

§163-47. Powers and duties of registrars and judges of election.—

(a) The registrars and judges of election shall conduct the primaries and elections within their respective precincts fairly and impartially, and they shall enforce peace and good order in and about the place of registration and voting.

(b) The registrar shall have in his charge the actual registration of voters within his precinct and shall not delegate this responsibility. On the days required by law, he shall attend the voting place for the registration of new voters and for hearing challenges, but in the performance of these duties the registrar shall be subject to the observance of such reasonable rules and regulations as the county board of elections may prescribe, not inconsistent with law. On the day of an election or primary, the registrar shall have charge of the registration book for the purpose of passing on the registration of persons who present themselves at the polls to vote.

(c) The registrars and judges shall hear challenges of the right of registered voters to vote as provided by law.

(d) The registrars and judges shall count the votes cast in their precincts and make such returns of the same as is provided by law.

(e) The registrars and judges shall make such an accounting to the chairman of the county board of elections for ballots and for election supplies as is required by law.

(f) The registrar and judges of election shall act by a majority vote on all matters not assigned specifically by law to the registrar or to a judge.

§163-48. Maintenance of order at place of registration and voting.—The registrar and judges of election shall enforce peace and good order in and about the place of registration and voting. They shall especially keep open

and unobstructed the place at which voters or persons seeking to register or vote have access to the place of registration and voting. They shall prevent and stop improper practices and attempts to obstruct, intimidate, or interfere with any person in registering or voting. They shall protect challengers and witnesses against molestation and violence in the performance of their duties, and they may eject from the place of registration or voting any challenger or witness for violation of any provisions of the election laws. They shall prevent riots, violence, tumult, or disorder.

In the discharge of the duties prescribed in the preceding paragraph of this section, the registrar and judges may call upon the sheriff, the police, or other peace officers to aid them in enforcing the law. They may order the arrest of any person violating any provision of the election laws, but such arrest shall not prevent the person arrested from registering or voting if he is entitled to do so. The sheriff, constables, police officers, and other officers of the peace shall immediately obey and aid in the enforcement of any lawful order made by the precinct election officials in the enforcement of the election laws. The registrar and judges of election of any precinct, or any two of such election officials, shall have the authority to deputize any person or persons as police officers to aid in maintaining order at the place of registration or voting.

§163-49 through §163-53 reserved for future use.

SUBCHAPTER III.

QUALIFYING TO VOTE

ARTICLE 6.

Qualifications of Voters.

§163-54. **Registration a prerequisite to voting.**—Only such persons as are legally registered shall be entitled to vote in any primary or election held under this chapter.

§163-55. **Qualifications to vote; exclusion from electoral franchise.**—Every person born in the United States, and every person who has been naturalized, and who shall have resided in the State of North Carolina for one year and in the precinct in which he offers to register and vote for thirty days next preceding the ensuing election shall, if otherwise qualified as prescribed in this chapter, be qualified to register and vote in the precinct in which he resides: Provided, that removal from one precinct to another in this State shall not operate to deprive any person of the right to vote in the precinct from which he has removed until thirty days after his removal.

The following classes of persons shall not be allowed to register or vote in this State:

1. Persons under twenty-one years of age.
2. Idiots and lunatics.
3. Persons who have been convicted, or who have confessed their guilt in open court, upon indictment, of any crime the punishment for which is now or may hereafter be imprisonment in the State's Prison, unless he shall have had his rights of citizenship restored in the manner prescribed by law.

§163-56. **State residence requirement shortened for presidential elections.**—A person who has been a resident of this State for not less than sixty days immediately prior to the date of a presidential election shall be entitled to

register and vote for presidential and vice-presidential electors in such election but for no other offices, provided he is then qualified to register and vote in this State except for the fact that he has not resided in this State for one year prior to the election. The procedure by which new resident voters shall register under the provisions of this section is prescribed in §163-73.

§163-57. Residence defined for registration and voting.—All registrars and judges, in determining the residence of a person offering to register or vote, shall be governed by the following rules, so far as they may apply:

(1) That place shall be considered the residence of a person in which his habitation is fixed, and to which, whenever he is absent, he has the intention of returning.

(2) A person shall not be considered to have lost his residence who leaves his home and goes into another State or county of this State, for temporary purposes only, with the intention of returning.

(3) A person shall not be considered to have gained a residence in any county of this State, into which he comes for temporary purposes only, without the intention of making such county his permanent place of abode.

(4) If a person removes to another State or county within this State, with the intention of making such State or county his permanent residence, he shall be considered to have lost his residence in the State or county from which he has removed.

(5) If a person removes to another State or county within this State, with the intention of remaining there an indefinite time and making such State or county his place of residence, he shall be considered to have lost his place of residence in this State or the county from which he has removed, notwithstanding he may entertain an intention to return at some future time.

(6) If a person goes into another State or county, or into the District of Columbia, and while there exercises the right of a citizen by voting in an election, he shall be considered to have lost his residence in this State or county.

(7) School teachers who remove to a county for the purpose of teaching in the schools of that county temporarily and with the intention or expectation of returning during vacation periods to live in the county in which their parents or other relatives reside, and who do not have the intention of becoming residents of the county to which they have moved to teach, for purposes of registration and voting shall be considered residents of the county in which their parents or other relatives reside.

(8) If a person removes to the District of Columbia or other federal territory to engage in the government service, he shall not be considered to have lost his residence in this State during the period of such service unless he votes there, and the place at which he resided at the time of his removal shall be considered and held to be his place of residence.

(9) If a person removes to a county to engage in the service of the State government, he shall not be considered to have lost his residence in the county from which he removed, unless he demonstrates a contrary intention.

§163-58. Literacy.—Only such persons as are able to read and write any section of the Constitution of North Carolina in the English language shall be entitled to register and vote in any primary or election held under this chapter.

§163-59. Right to participate or vote in party primary.—No person shall be entitled to vote or otherwise participate in the primary election of any political party unless he

1. Is a registered voter, and
2. Has declared and has had recorded on the registration book or record the

fact that he affiliates with the political party in whose primary he proposes to vote or participate, and

3. Is in good faith a member of that party.

Any person who will become qualified by age or residence to register and vote in the general election for which the primary is held, even though not so qualified by the date of the primary election, shall be entitled to register while the registration books are open during the regular registration period prior to the primary and then to vote in the primary after being registered. In counties which adopt full-time and permanent registration, such an individual may register not earlier than sixty (60) days nor later than twenty-one (21) days prior to the primary.

§163-60 through §163-64 reserved for future use.

ARTICLE 7.

Registration of Voters.

§163-65. Registration books and records.—(a) *Precinct records:* The county board of elections shall furnish each precinct registrar with a proper book or books in which to record registrations. This book shall be prepared to contain all of the information pertaining to a registered voter required by §163-72, including the registrant's political party affiliation, if any. On each page of the book shall be printed a column index giving the first two letters of the surnames and the pages on which persons bearing those names are registered.

In lieu of a bound book, the county board of elections, with the approval of the board of county commissioners, is authorized to install a loose-leaf registration book system in any or all of the precincts of the county.

(b) *Special register for chairman of board of elections:* The State Board of Elections shall furnish the chairman of the county board of elections with a book in which he shall register qualified persons prior to the regular registration period under the provisions of §163-68. This book shall be prepared to contain all the information pertaining to a registered voter required by §163-72, including the registrant's political party affiliation and also a record of the precinct in which he resides.

(c) *Registration record in county with full-time and permanent registration:* In counties which adopt full-time and permanent registration, the applicant's application to register, when approved by the county board of elections, as provided in §163-67, shall become an official registration certificate. All original registration certificates shall be kept by the county board of elections in a safe place to be provided by the board of county commissioners. The county board of elections shall place an exact duplicate or copy of each original registration certificate in the proper precinct registration book, and certify each such book as containing the registration certificates of all persons entitled to vote in that precinct. Duplicate registration certificates filed in the precinct registration books, when properly certified by the county board of elections, shall be used in the precincts for purposes of all primaries and elections; provided, however, that the original registration certificates shall at all times be the official and final evidence of registration, and the county board of elections shall have power to correct the duplicates in the precinct registration books to conform to the original registration certificates at any time, including the day of any primary or election.

§163-66. Custody of registration records and poll books; access; obtaining copies.—When not in use for a primary or election, all registration and

poll books shall be in the custody and safekeeping of the chairman of the county board of elections. It shall be his duty to keep these books in a safe and secure place where they may not be tampered with, stolen or destroyed. If possible, he shall keep them in a fireproof vault. While the registration and poll books are in the custody of the chairman of the county board of elections, he may, in his discretion, permit them to be inspected or copied, but only under his supervision.

The precinct registrar shall be responsible for the safekeeping of the registration and poll books while in his custody. While these books are in the hands of the precinct registrar prior to a primary or election, it shall be his duty, on application of any candidate or the county chairman of any political party, to permit the registration and poll books to be copied at the registrar's residence or at the voting place. The registrar shall not release the registration and poll books from his custody for this purpose. In lieu of permitting these books to be copied, the registrar may furnish an accurate list of all names appearing therein, for which service he shall be paid by the candidate or party chairman to whom the list is furnished, at the rate of two cents for each name listed.

In counties which adopt full-time and permanent registration, the registration books, registration certificates, indexes, and other records of registration shall be and remain in the possession of the county board of elections. The board may exercise supervision and control of these records through its properly designated officers and employees. In such counties, it shall be the duty of the county board of elections, on application of any candidate, or the county chairman of any political party, or any other person, to furnish a list of the persons registered to vote in the county or in any precinct or precincts therein. In such a county no registrar shall furnish lists of registered voters or permit the registration records of his precinct to be copied. The county board of elections may furnish such lists upon sheets, cards, postal cards, or envelopes, and, upon request, it shall furnish selective lists according to party affiliation, sex, race, date of registration, or any other reasonable category. In all instances, however, the county board of elections shall require persons to whom such lists are furnished to make full reimbursement for the expense incurred in preparing them.

Any person willfully failing or refusing to comply with the provisions and requirements of this section shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not more than fifty dollars or imprisoned not more than thirty days.

§163-67. Time and place for registration.—(a) *Registration periods:* Before each primary and election qualified persons shall be given an opportunity to register to vote during a registration period prescribed by this section. If a new county-wide registration of all voters is ordered by the county board of elections, the registration books shall be opened for the registration of qualified persons at nine o'clock a.m. on the fifth Saturday before the primary or election, otherwise, the registration books shall be opened at nine o'clock a.m. on the fourth Saturday before the primary or election. The period for registration shall be closed at 6:30 p.m. on the second Saturday before the primary or election.

Between the hours of nine o'clock a.m. and 6:30 p.m. on each day during the period in which registration is conducted, the registrar shall keep the registration book open for registration of qualified persons residing in his precinct. On each Saturday during the period of registration the registrar shall be present, with the registration book, at the voting place in his precinct

between the hours of nine o'clock a.m. and 6:30 p.m. for the registration of qualified persons.

(b) *Full-time registration:* In a county which has installed a loose-leaf registration book system in all precincts as permitted by §163-65, the county board of elections, with the approval of the board of county commissioners, shall have power to establish by resolution a full-time system of registration under which the registration books, process, and records shall be open continuously for the acceptance of registration applications and for the registration of voters at all reasonable hours and times. In such counties no registration shall be a qualification to vote in a particular primary, general, or special election, unless the registrant shall have made application for registration not less than twenty-one days next preceding the primary, general, or special election next to be held.

When full-time registration has been established in a county, the official record of registration shall be made and kept in the form of an application to register which, as prescribed by the county board of elections, shall contain all information necessary to show the applicant's qualifications to register. In such a county, no person shall be registered to vote without first making a written, sworn, and signed application to register upon the form prescribed by the county board of elections. If the applicant cannot write because of physical disability, his name shall be written on the application for him by the election official to whom he makes application, but the specific reason for the applicant's failure to sign shall be clearly stated upon the face of the application.

Registrars and special registration commissioners appointed under the provisions of §163-41 may take registration applications from and administer registration oaths to qualified applicants without regard to the precinct residence of the registrar, special registration commissioner, or applicant: Provided, however, the county board of elections shall have power to limit the areas in which registrars and special registration commissioners may exercise the authority conferred in this paragraph.

Applications to register which have been completed by persons who have taken the required oath shall be forwarded promptly to the county board of elections. No application to register shall constitute a valid registration until it has been approved by the county board of elections.

For the purpose of receiving registration applications, registrars shall attend the voting places in their precincts only on such days and at such hours as may be fixed by the county board of elections: Provided, the county board of elections shall not require registrars to be present at the voting places for this purpose on any day less than twenty-one days prior to a primary or election. In its discretion, the county board of elections may require no attendance by registrars at the voting places for the purpose of receiving registration applications.

The county board of elections is authorized to make reasonable rules and regulations, not inconsistent with law, to insure full-time registration as provided in this section.

(c) *No registration on day of primary or election; exception:* No person shall be permitted to register on the day of an election or primary, unless he shall have become qualified to register and vote between the date the registration period expired and the date of the succeeding primary or election. No one shall be permitted to register on the day of a second primary unless he shall have become qualified to register and vote between the date of the first primary and the date of the succeeding second primary.

§163-68. Registration of persons expecting to be absent during registration period.—Any citizen of the State, not duly registered, who may be qualified to vote under the Constitution and laws of this State, and who expects to be absent from the precinct in which he resides during the period for registration established by §163-67, may be registered as provided in this section.

It shall be the duty of the chairman of the county board of elections to register any person possessing the qualifications to vote who presents himself for registration at any time other than the usual registration period, and who expects to be absent from the precinct in which he resides during all of the usual registration period. The chairman shall follow the registration procedure set out in §163-72 for the registration of voters before the precinct registrar, except that he shall record each such registration in the book furnished him for that purpose by the State Board of Elections under the provisions of §163-65.

Immediately after registrars are appointed for any primary or election to be held in the county, or in any political subdivision of the county, the chairman of the county board of elections shall certify to the registrar of each precinct the name, age, race, residence, and place of birth of each person he has registered who is entitled to vote in the particular precinct. It shall then be the duty of the registrar to enter upon the regular registration record of his precinct all names and accompanying information certified to him by the chairman of the county board of elections, writing opposite each name entered the words "Registered before Chairman of County Board of Elections."

Persons registered in accordance with the provisions of this section shall be entitled to vote in all primaries and elections held in the precinct in which registered in the same manner as if they had been registered by the precinct registrar.

§163-69. Permanent registration.—In counties which adopt full-time registration as authorized by §163-67, the registration certificates shall be a permanent public record of registration and qualification to vote, and they shall not thereafter be cancelled. In such a county no new registration shall be ordered, either by precinct or county-wide, unless the permanent registration certificates have been lost or destroyed by theft, fire, or other hazard.

In the event of any division of precincts or change in precinct boundaries, the board of elections in such a county shall not cancel the existing registration or order a new registration, but it shall immediately correct the existing precinct registration certificates to conform to the division or change.

To the end that the permanent registration records shall be purged of the names of registrants who have died or who have become disqualified to vote since registration, the register of deeds of the county shall furnish to the county board of elections a certification of all death certificates as soon as they are recorded in his office. Upon receipt of such a certification from the register of deeds, the county board of elections shall cause to be removed from the permanent registration records of the county the name of any person appearing on the register of deeds' death certificate certification. In addition, the county board of elections is authorized to remove from the permanent registration records the names of all persons who have failed to vote, according to the poll or other record of voting, for a period of four years. Prior to removing any person's name from the registration records for failure to vote for four consecutive years, as authorized in this section, the county board of elections shall cause to be mailed to the person affected, at the address shown on the

permanent registration records, a notice to show cause why his registration should not be voided. If such a person shall appear and show that his qualifications to register and vote remain as they were when he was first registered, his name shall not be removed from the permanent registration record. Any person whose name has been removed from the permanent registration record for failure to vote for four consecutive years shall be permitted to re-register at any time he can demonstrate that he is qualified to register and vote.

Nothing in this section shall prohibit the county board of elections from restoring to the permanent registration records the name of any person upon proof that he is not dead or that he has voted in the county within the four-year period.

§163-70. Registrar to certify number registered in precinct.—At the close of the registration period, each registrar shall promptly certify to the county board of elections the number of voters registered in his precinct.

The requirement of this section shall not apply in counties which adopt full-time and permanent registration.

§163-71. Municipal corporations authorized to use county registration records.—Upon such terms as may be mutually agreed to by the governing body of any city, town, or other municipality and the boards of commissioners and elections of the county in which the municipality is situated, the municipality is authorized to use the registration books, process, or records of the county as the official record of registration of persons qualified to vote in municipal elections. If such an agreement is reached, the provisions of law applicable to the registration of voters in the county shall also apply to the city, town, or other municipal corporation for the purpose of its primary, general, regular, and special elections.

All elections heretofore held or ordered to be held by any city, town, or other municipal corporation in which the registration books, process, or records of the county in which the municipal corporation is located were used or ordered to be used are hereby in all respects ratified, validated, and confirmed.

§163-72. Registration procedure; oath.—Before questioning any applicant for registration as to his qualifications, the registrar shall administer the following oath to him:

You swear (or affirm) that the statements and information you shall give me with respect to your identity and qualifications to register to vote shall be the truth, the whole truth, and nothing but the truth; so help you, God.

After being sworn, the applicant shall state as accurately as possible his name, age, place of birth, place of residence, political party affiliation, if any, under the provisions of §163-74, and any other information which may be material to a determination of his identity and qualification to be admitted to registration. The registrar, if in doubt as to the right of the applicant to register, may require other evidence satisfactory to him as to the applicant's qualifications.

If the registrar finds the applicant duly qualified and entitled to be registered, he shall administer the following registration oath to him:

I,, do solemnly swear (or affirm) that I will support the Constitution of the United States, and the Constitution of the State of North Carolina not inconsistent therewith; that I have been or will have been a resident of the State of North Carolina for one year, and of this precinct for thirty days by the date of the next general election; that I am at least

twenty-one years of age or will be by the date of the next general election; and that I have not registered to vote in any other precinct. So help me, God.

If the registrar finds the applicant qualified and entitled to be registered, and if the applicant has taken the oath prescribed in the preceding paragraph, the registrar shall register him by recording his name, age, race, residence, place of birth, and the precinct, county, or state from whence he has removed in the event of a removal, in appropriate columns of the registration book or other registration record.

The registration book or other record containing the information required by the preceding paragraph shall be evidence against the applicant in any court of law in a proceeding for false or fraudulent registration.

If an applicant for registration has removed from another precinct in the same county since his last registration, he shall, before being registered fill out and sign a transfer certificate in the form prescribed in the following paragraph.

Prior to the opening of each registration period, the chairman of the county board of elections shall furnish each precinct registrar with an adequate supply of registration transfer certificates printed in substantially the following form:

To the Registrar of Precinct
..... County, N. C.

I hereby certify that I have removed my residence from voting precinct, where I was a registered voter, to voting precinct within the same county, and I have this day applied for registration before the undersigned registrar of this precinct in which I now reside, and I hereby request and authorize you to remove my name from the registration book of your precinct as I am no longer qualified to vote in your precinct.

Signed this day of, 19.....

.....
(Signature of applicant)

Witness

..... Registrar
..... Precinct
..... Address

When an applicant has completed and signed a transfer certificate the registrar shall sign the certificate as a witness to the applicant's signature. Immediately after the close of the registration period the registrar shall mail all completed transfer certificates to the chairman of the county board of elections, who shall immediately mail them to the registrars of precincts from which the applicants have removed. Upon receipt of such certificates, the registrars shall cancel the registration of applicants who have requested and authorized that action on the registration records of their precincts.

In counties which adopt full-time and permanent registration, no registered voter shall be required to re-register upon moving from one precinct to another in the same county. In lieu thereof, in accordance with regulations prescribed by the county board of elections, not less than twenty-one days before any primary or election in which the removing elector desires to vote, he shall file with the county board of elections, or with a registrar or special registration commissioner, an affidavit setting forth his former residence, his new residence, the date of his removal to the new residence, and a statement that all his other qualifications to register and vote remain as they were at the time he was registered. If the county board of elections finds the facts asserted in the affidavit to be true, it shall immediately transfer the voter's registration

to the precinct of his new residence. Thereafter the voter shall be considered registered and qualified to vote in his new precinct of residence.

§163-73. Registration and voting of new residents in presidential elections.

—A person qualifying under §163-56 and desiring to vote for presidential and vice-presidential electors shall appear in person to register before the chairman of the board of elections of the county in which he is then residing not more than twenty days before the day set for holding the presidential election and not later than five o'clock, p.m. on Friday preceding the day set for holding that election. For the registration of such persons, the chairman of the county board of elections shall maintain a separate registration book which shall conform in all respects to the registration books used in the precincts of the county.

In registering an applicant under this section, the chairman of the county board of elections shall adhere to the procedure prescribed for registrars in §163-72 except that the applicant shall not be required to take the registration oath prescribed in that section. In lieu thereof, in the presence of the chairman of the county board of elections, the applicant shall make application for a presidential ballot by completing, signing, and swearing to an application form substantially as follows. The chairman of the county board of elections shall administer the oath thereto:

**Application and Affidavit of New Residents for Voting
for Presidential and Vice-Presidential Electors**

State of North Carolina
County of

I,, do solemnly swear (or affirm) that I am a citizen of the United States; that I am twenty-one years of age or will become twenty-one by the date of the next Presidential Election; that I have been a legal resident of the State of North Carolina since, 19 ..; that I now reside at (Street or other address) in the City (or Town) of in precinct, of the County of, North Carolina; that I will have been a resident thereof at least sixty days prior to the date of the next Presidential Election; that I will be qualified to vote in said precinct for electors for President and Vice-President of the United States; that I have not voted, nor will I vote in the state of my former residence, or elsewhere in North Carolina; and I do now hereby make application for an official Presidential ballot for my use in voting in said election in the State of North Carolina.

Signed
Address

Subscribed and sworn to before me this day of, 19.....

Signed
Chairman, County Board of Elections
of County, N. C.

If the chairman of the county board of elections is satisfied that the application provided for above is in proper order and that the applicant is qualified to vote under the provisions of §163-56 for electors for President and Vice-President, he shall then give to the applicant one of the official presidential and vice-presidential ballots furnished by the State Board of Elections. Upon receiving the ballot, the applicant shall mark it in the presence of the chairman, but in such manner as not to disclose to the chairman how he has marked it. The applicant shall then fold the ballot, concealing the marking thereon, and deliver it to the chairman, who shall write his initials and a consecutive number on the top margin of the ballot and then place the ballot in a container

envelope similarly numbered and seal it. On the face of the envelope there shall be printed or typed the following:

This envelope contains the Presidential ballot of, a new resident of this county and State, presently residing in precinct in County, North Carolina, and being voted pursuant to the provisions of Article 18 of Chapter 163 of the General Statutes of North Carolina.

The chairman of the county board of elections shall safely keep the sealed envelope containing the marked ballot of the new resident voter until the morning of the day of the election in which the ballot is to be voted. Before noon on that day the chairman shall deliver the ballot or cause it to be delivered to the registrar of the precinct in which the applicant is then residing, together with a list of all new resident voters voting in the presidential election and residing in that precinct.

§163-74. Record of political party affiliation; changing recorded affiliation; correcting erroneous record.—(a) *Record of party affiliation:* When any person applies for registration during a regular registration period prior to any primary or election, it shall be the duty of the registrar to request the applicant to state his political party affiliation and to record the affiliation in the registration book or appropriate record. Such recorded party affiliation shall thereafter be permanent unless, or until, the registrant changes it under the provisions of subsection (b) of this section.

If the applicant refuses to declare his party affiliation upon request, the registrar shall register his name, if he is otherwise qualified, without indicating any party affiliation opposite the name. The registrar shall then advise the applicant that, although registered, he cannot vote in any party primary but only in general elections held thereafter.

If the applicant states to the registrar that he is an Independent, indicating affiliation with no political party, the registrar shall register his name, if he is otherwise qualified, entering the designation "Independent" in the proper place on the registration record. The registrar shall then advise the applicant that, although registered, he cannot vote in any party primary but only in general elections held thereafter.

In all cases in which no party affiliation has been recorded in the registration book opposite the name of any registered elector, but not including those registered as Independents, the registrant may, on primary election day, appear before the registrar of his precinct and have his political party affiliation recorded by taking the following oath to be administered by the registrar:

I,, do solemnly swear (or affirm) that I desire in good faith to have my affiliation with the Party recorded in the registration book of this precinct, so help me, God.

When the registrant has taken the prescribed oath, the registrar shall record his declared party affiliation opposite the registrant's name in the registration book and permit him to vote in the primary of the party with which he is affiliated.

(b) *Change of party affiliation:* No registered elector shall be permitted to change the record of his party affiliation for a primary or second primary after the close of the registration period immediately prior to the primary. Any registrant who desires to have the record of his party affiliation changed on the registration book shall, during a regular registration period only, go

to the registrar of his precinct and request that the change be made. Before being permitted to have the change made, the registrar shall require the registrant to take the following oath, and it shall be the duty of the registrar to administer it:

I,, do solemnly swear (or affirm) that I desire in good faith to change my party affiliation from the Party to the Party, and that such change of affiliation be made on the registration records in the manner provided by law, so help me, God.

In counties which adopt full-time and permanent registration, any registered voter who desires to have his party affiliation changed on the registration records of the county shall, not less than twenty-one days prior to any primary election, file an affidavit in the form of the oath set out in the preceding paragraph with the county board of elections, a registrar, or a special registration commissioner, in accordance with regulations to be adopted by the county board of elections. Upon receipt of the required oath, the county board of elections shall immediately change the record of the registrant's party affiliation to conform to that stated in the oath. Thereafter the voter shall be considered registered and qualified to vote in the primary elections of the political party which he designated in the oath.

(c) *Correction of erroneous record of party affiliation:* If at any time the chairman of the county board of elections or the registrar of any precinct shall be satisfied that an error has been made in designating the party affiliation of any voter on the registration book of his precinct then, and in all such events, the chairman of the county board of elections or the registrar, having custody of the registration book, may make the necessary correction after first administering to the voter the following oath:

I,, do solemnly swear (or affirm) that I desire in good faith to have the erroneous entry of my affiliation with the Party in the registration book of this precinct corrected in the manner provided by law to show that I affiliate with the Party, so help me, God.

§163-75. Appeal from denial of registration.—Any person who is denied registration for any reason may appeal the decision of the precinct registrar to the board of elections of the county in which the precinct is located. The person appealing shall file notice of his appeal with the county board of elections and with the registrar who refused to register him by 5 o'clock, p.m. on the day following the day of denial. The notice of appeal shall be in writing, signed by the appealing party, and shall set forth the name, age, and address of the appealing party; it shall also state the reasons for the appeal.

§163-76. Hearing on appeal before county board of elections.—Any registrar receiving a notice of appeal from denial of registration shall file the notice with the county board of elections by 5 o'clock p.m. on the day following the day on which he receives it. Every person appealing to the county board of elections from denial of registration shall be entitled to a prompt and fair hearing on the question of his right and qualifications to register as a voter. All cases on appeal to a county board of elections shall be heard de novo.

Two members of the county board of elections shall constitute a quorum for the purpose of hearing appeals on questions of registration. The decision of a majority of the members of the board shall be the decision of the

board. The board is authorized to subpoena witnesses and to compel their attendance and testimony under oath, and it is further authorized to subpoena papers and documents relevant to any matters pending before the board.

If at the hearing the board shall find that the person appealing from the decision of the registrar is able to read and write any section of the Constitution of North Carolina in the English language, and if the board further finds that the appellant meets all other requirements of law for registration as a voter in the precinct in which application was made, the board shall enter an order to the precinct registrar directing that the appellant be registered as a voter in the precinct from which the appeal was taken. The county board of elections shall not order the applicant registered in any precinct other than that from which the appeal was taken. Not later than ten days after an appeal is heard before the county board of elections, the board shall give notice of its decision to the appealing party.

§163-77. Appeal from county board of elections to superior court.— Any person aggrieved by a final decision of a county board of elections denying registration may at any time within ten days from the date on which he receives notice of the decision appeal therefrom to the superior court of the county in which the board is located. Upon such an appeal, the appealing party shall be the plaintiff and the county board of elections shall be the defendant, and the matter shall be heard de novo in the superior court in the manner in which other civil actions are tried and disposed of therein.

If the decision of the court be that the order of the county board of elections shall be set aside, then the court shall enter its order so providing and adjudging that the plaintiff is entitled to be registered as a qualified voter in the precinct in which he originally made application to register, and in such case the plaintiff's name shall be entered in the registration book of that precinct. The court shall not order the registration of any person in a precinct in which he did not apply to register prior to the proceeding in court.

From the judgment of the superior court an appeal may be taken to the Supreme Court in the same manner as other appeals are taken from judgment of that court in civil actions.

§163-78. New registrations; registration when books mutilated or destroyed; revisions of registration books.—(a) *New registration:* The county board of elections shall have power from time to time to order a new registration of all qualified persons for any or all precincts in the county to be conducted in the period prescribed by §163-67(a). Upon adoption of a resolution ordering a new registration, the county board of elections shall give twenty days' notice thereof prior to the opening of the registration period by advertising in a newspaper having general circulation in the county, or in lieu thereof, at the courthouse door and at three other public places in the county. When a new registration is ordered, however, the names of persons who have been registered since the last preceding primary or general election by the chairman of the county board of elections under §163-68 shall remain upon the registration books unless those so registered have died or otherwise become disqualified.

(b) *Registration when books mutilated or destroyed:* In the event the registration books for any precinct shall, prior to thirty days preceding any primary, general, or special election, be destroyed by fire or other cause

or shall become mutilated to the extent they can no longer be used, the county board of elections shall provide the precinct registrar with a new registration book, and shall order a new registration of qualified persons in the precinct at the times and places and in the manner prescribed in §163-67(a). The county board of elections shall give notice of the new registration at least ten days before the date on which the books will be opened by advertisement in a newspaper having general circulation in the county, or in lieu thereof, at the courthouse door and at three public places in the precinct affected. The notice shall state the opening and closing dates for registration, the location of the voting place, and the name of the precinct registrar. If time does not permit challenge day to be held on a separate Saturday, the county board of elections may combine it with the last Saturday for registration, so specifying in the notice of the new registration.

Should the destruction or mutilation of the precinct registration book occur less than thirty days before any primary, general, or special election, the county board of elections shall, insofar as time will permit, adhere to the provisions of the first paragraph of this section. If the time available makes it impossible to conduct a new registration in the affected precinct, each person presenting himself to vote in the precinct on the day of the ensuing general or special election shall be allowed to cast his ballot after signing and delivering to the registrar an affidavit in the following form:

I,, do solemnly swear (or affirm) that I will support the Constitution of the United States, and the Constitution of the State of North Carolina not inconsistent therewith; that I have been a resident of the State of North Carolina for one year, and of this precinct for thirty days; that I am twenty-one years of age; and that I have not registered to vote in any other precinct. So help me, God.

If the ensuing election is a primary rather than a general or special election, the following affidavit shall be used:

I,, do solemnly swear (or affirm) that I will support the Constitution of the United States, and the Constitution of the State of North Carolina not inconsistent therewith; that I have been or will have been a resident of the State of North Carolina for one year, and of this precinct for thirty days by the date of the next general election; that I am twenty-one years of age or will be by the date of the next general election; and that I have not registered to vote in any other precinct. So help me, God.

Persons permitted to vote under this procedure may be challenged in accordance with the provisions of §163-87 and §163-88. The registrar shall deliver all affidavits deposited with him to the county board of elections on canvass day. The affidavits shall not be deemed to constitute a new record of registration for the precinct for subsequent primaries and elections.

(c) *Revision of registration books:* The county board of elections shall have power from time to time to order a revision of the registration books of any or all precincts in the county by requiring that they be purged of illegal or disqualified voters, after notice to such registrants as herein directed.

When the county board of elections makes an order of revision it shall be directed to the registrar and judges of election of the precinct to which it relates, directing them to meet at the precinct voting place on the first Saturday of the registration period before any primary or election, and to prepare from the registration books a list of those registrants, with their

names and addresses as they appear on the registration books, who are, in the opinion of the precinct officials, dead or disqualified to vote by removal from the precinct. When the list is prepared the precinct officials shall, within forty-eight hours, deliver it to the chairman of the county board of elections.

Upon receipt of the list described in the preceding paragraph, the chairman of the county board of elections shall cause to be mailed to each listed person, at the address shown on the list, a notice requiring him to appear at the precinct voting place on the Saturday prescribed for challenge day, and show that he is legally entitled to vote in that precinct. In lieu of a personal appearance on challenge day, the registrant may furnish evidence by mail or otherwise that he is qualified to vote in the precinct.

Upon failure of such a person to make a personal appearance on challenge day, or upon failure of such a person to offer satisfactory evidence that he is qualified to vote in the precinct in the approaching primary or election, the precinct officials shall strike his name from the registration book.

However, in the event that any person whose name has been removed from the registration book of a precinct under the provisions of this section should appear at the voting place on primary or election day and give satisfactory evidence to the registrar and judges that he has never received any notice by mail or otherwise that his name has been placed on the list of disqualified voters in that precinct, and can satisfy the precinct officials that he is qualified to vote in that precinct, then his name shall be re-entered on the registration book, and he shall be allowed to vote in that precinct as before.

§163-79 through §163-83 reserved for future use.

ARTICLE 8.

Challenges.

§163-84. **Right to challenge; to whom challenge made.**—The right of any person to register, to remain registered, or to vote in a precinct may be challenged by any registered voter of that precinct, including the precinct registrar and judges of election: Provided, however, that in counties which adopt full-time and permanent registration, any person registered to vote in the county may challenge the right of any other person to register, to remain registered, or to vote in that county. In all counties challenges shall be made to the appropriate precinct registrar, except that in counties which adopt full-time and permanent registration challenges made on days other than the day of a primary or election shall be made to the county board of elections. Challenges shall be made, heard, and decided as provided in this article.

§163-85. **Special times for challenge; challenge procedure; notice of hearing.**—It shall be the duty of the registrar to bring the registration books of his precinct to the precinct voting place on the Saturday immediately preceding each primary and election, and keep them open there from 9 o'clock a.m., until 3 o'clock p.m., for inspection by the registered voters of the precinct. During those hours any registered voter of the precinct shall be allowed to challenge the registration and voting rights of any person whose name appears on the books. When an objection is entered, the registrar shall write the word "challenged" in pencil upon the registration

book opposite the name of the person objected to, then he shall appoint a time and place at which he, together with the precinct judges of election, shall hear and decide the challenge. The hearing shall in all events be held before the date of the immediately succeeding primary or election. The registrar shall prepare a written notice of each challenge, stating succinctly the grounds asserted and the time and place at which the challenge will be heard, and serve or have it served on the challenged registrant. If personal service is not possible, a copy of the notice shall be left at the residence of the challenged registrant. The registrar shall also furnish the challenger with a copy of the notice of hearing.

In counties which adopt full-time and permanent registration there shall be no single challenge day. In such counties the registration records shall be open to inspection by any registered voter of the county at reasonable hours on one or more days each week to be set by regulation of the county board of elections, at which time the registration of any elector of the county shall be subject to objection and challenge. Written notice of each challenge and hearing shall be prepared and served by the county board of elections in the manner in which registrars prepare and serve such notices in counties without full-time and permanent registration.

§163-86. Hearing on challenge made prior to primary or election day.—A challenge entered on a day other than the day of a primary or election shall be heard and decided before the date of the next ensuing primary or election. Challenges shall be heard and decided by the registrar and judges of election of the precinct in which the challenged registrant is registered, except in counties which adopt full-time and permanent registration where challenges entered on a day other than the day of a primary or election shall be heard and decided by the county board of elections.

At the time and place set for the hearing on a challenge entered prior to the date of a primary or election, the election officials conducting the hearing shall explain to the challenged registrant the qualifications for registration and voting in this State. The officials conducting the hearing shall then administer the following oath to the challenged registrant:

You swear (or affirm) that the statements and information you shall give in this hearing with respect to your identity and qualifications to be registered and to vote shall be the truth, the whole truth, and nothing but the truth; so help you, God.

After being sworn, the officials conducting the hearing shall examine the challenged registrant as to his qualifications to be registered and to vote. If the challenged registrant insists that he is qualified, the officials conducting the hearing shall tender to him the following oath or affirmation:

You do solemnly swear (or affirm) that you are a citizen of the United States; that you are twenty-one years of age or will become twenty-one by the date of the next general election; that you have or will have resided in this State for one year, and in the precinct for which registered for thirty days by the date of the next general election; that you are not disqualified from voting by the Constitution and laws of this State; that your name is, and that in such name you were duly registered as a voter of precinct; and that you are the person you represent yourself to be. So help you, God.

If the challenged registrant refuses to take the tendered oath, the challenge shall be sustained, and the officials conducting the hearing shall

erase his name from the registration records. If the challenged registrant takes the tendered oath, the officials conducting the hearing may, nevertheless, sustain the challenge unless they are satisfied that the challenged registrant is a legal voter. If they are satisfied that he is a legal voter, they shall overrule the challenge and erase the word "challenged" which appears by the voter's name in the registration book.

Election officials conducting hearings on challenges shall have authority to administer the necessary oaths or affirmations to all witnesses brought before them to testify to the qualifications of the person challenged.

§163-87. Challenges allowed on day of primary or election.—On the day of a primary or election, at the time a registered voter offers to vote, any other registered voter of the precinct may exercise the right of challenge, and when he does so may enter the voting enclosure to make the challenge, but he shall retire therefrom as soon as the challenge is heard.

On the day of a party primary, any voter of the precinct who is registered as a member of the political party conducting the primary may, at the time any registrant proposes to vote, challenge his right to vote upon the ground that he does not affiliate with the party conducting the primary or does not in good faith intend to support the candidates nominated in that party's primary, and it shall be the duty of the registrar and judges of election to determine whether or not the challenged registrant has a right to vote in that primary according to the procedures prescribed in §163-88.

§163-88. Hearing on challenge made on day of primary or election.—A challenge entered on the day of a primary or election shall be heard and decided by the registrar and judges of election of the precinct in which the challenged registrant is registered before the polls are closed on the day the challenge is made. When the challenge is heard the precinct officials conducting the hearing shall explain to the challenged registrant the qualifications for registration and voting in this State, and shall examine him as to his qualifications to be registered and to vote. If the challenged registrant insists that he is qualified, and if, by the sworn testimony of at least one registered voter of the precinct, he shall prove his identity with the person in whose name he offers to vote and his continued residence in the precinct since he was registered, one of the judges of election or the registrar shall tender to him the following oath or affirmation, omitting the portions in brackets if the challenge is heard on the day of an election other than a primary:

You do solemnly swear (or affirm) that you are a citizen of the United States; that you are twenty-one years of age [or will become twenty-one by the date of the next general election]; that you have [or will have] resided in this State for one year, and in this precinct for thirty days [by the date of the next general election]; that you are not disqualified from voting by the Constitution and laws of this State; that your name is , and that in such name you were duly registered as a voter of this precinct; that you are the person you represent yourself to be; [that you are affiliated with the Party]; and that you have not voted in this [primary] election at this or any other voting place. So help you, God.

If the challenged registrant refuses to take the tendered oath, the challenge shall be sustained, and the precinct officials conducting the hearing shall mark the registration records to reflect their decision, and they shall erase the challenged registrant's name from the poll book if it has been entered therein. If the challenged registrant takes the tendered oath, the

precinct officials conducting the hearing may, nevertheless, sustain the challenge unless they are satisfied that the challenged registrant is a legal voter. If they are satisfied that he is a legal voter, they shall overrule the challenge and permit him to vote. Whenever any person's vote is received after having taken the oath prescribed in this section, the registrar or one of the judges of election shall write on the registration record and on the poll book opposite the registrant's name the word "sworn."

Precinct election officials conducting hearings on challenges on the day of a primary or election shall have authority to administer the necessary oaths or affirmations to all witnesses brought before them to testify to the qualifications of the person challenged.

§163-89. Procedure for challenging absentee ballot and presidential ballot of new resident voter; right to appeal.—On election day any person registered to vote in a precinct may challenge an absentee voter's ballot or the presidential ballot of a new resident voter in his precinct. Each such ballot challenged shall be challenged separately. The challenge shall be addressed to the registrar, shall be written, and shall set out the specific reasons for the challenge, specifying why the ballot fails to comply with the law or why the absentee or new resident voter is not entitled to vote in the election.

When a challenge has been filed in accordance with the preceding paragraph, the registrar and judges shall proceed to hear the challenger's reasons for the challenge and make their decision without opening or removing the ballot from the container envelope. The burden of proof shall be upon the challenger in each case. The precinct officials conducting the hearing shall have authority to administer the necessary oaths or affirmations to all witnesses brought before them to testify to the qualifications of the voter challenged or to the validity or invalidity of the ballot.

If the challenge is sustained, the absentee or new resident voter's ballot shall not be counted; the container envelope shall not be opened but shall be marked "Challenge Sustained." All envelopes so marked shall be filed with the county board of elections at the time of the county canvass when the precinct returns are filed. They shall be preserved intact by the chairman of the county board of elections for a period of six months, or longer if any contest shall then be pending concerning the validity of any absentee or new resident's ballot delivered to him.

If the challenge is not sustained, the absentee ballot or new resident's ballot shall be removed from the container envelope, deposited in the appropriate ballot box, counted, and tallied as provided in §163-234.

Any voter whose ballot has been challenged under the provisions of this section may, if the challenge is sustained, either personally or through a duly authorized representative, appeal to the county board of elections on the day of the county canvass to sustain the validity of the voter's ballot, and if its validity is sustained, his ballot shall be counted and added by the board to the returns from the proper precinct.

In primary elections the provisions of this section shall apply to the ballots of servicemen seeking to avail themselves of the right to vote by absentee ballot under this chapter.

§163-90. Challenge as felon; answer not to be used on prosecution.—If any registered voter is challenged as having been convicted of any crime which excludes him from the right of suffrage, he shall be required to answer any question in relation to the alleged conviction, but his answers

to such questions shall not be used against him in any criminal prosecution.
§163-91 through §163-95 reserved for future use.

SUBCHAPTER IV. POLITICAL PARTIES

ARTICLE 9.

Political Party Definition.

§163-96. Political part defined; creation of new party.—

(a) *Definition:* A political party within the meaning of the election laws of this State shall be either:

1. Any group of voters which, at the last preceding general State election, polled for its candidate for governor, or for presidential electors, at least ten per cent (10%) of the entire vote cast in the State for governor or for presidential electors; or

2. Any group of voters which shall have filed with the State Board of Elections petitions for the formation of a new political party which are signed by ten thousand (10,000) persons who, at the time they sign, are registered and qualified voters in this State, and which comply with the conditions prescribed in subsection (b) of this section. To be effective, the petitioners must file their petitions with the State Board of Elections before 12 o'clock noon on the first day of July preceding the day on which is to be held the first general State election in which the new political party desires to participate. The State Board of Elections shall forthwith determine the sufficiency of petitions filed with it and shall immediately communicate its determination to the State chairman of the proposed new political party.

(b) *Petitions for new political party.* Petitions for the formation of a new political party must declare that the signers intend to organize a new political party on a State-wide basis, that they intend to participate as a political party in the next succeeding general election, and that they intend to affiliate with the new party by voting for its nominees.

The petitions must specify the name selected for the proposed political party. The State Board of Elections shall reject petitions for the formation of a new party if the name chosen contains any word that appears in the name of any existing political party recognized in this State or if, in the Board's opinion, the name is so similar to that of an existing political party recognized in this State as to confuse or mislead the voters at an election.

The petitions must state the name and address of the State chairman of the proposed new political party.

The validity of the signatures on the petitions shall be proved in accordance with one of the following alternative procedures:

1. The signers may acknowledge their signatures before an officer authorized to take acknowledgments, after which that officer shall certify the validity of the signatures by appropriate notation attached to the petition, or

2. A person in whose presence a petition was signed may go before an officer authorized to take acknowledgments and, after being sworn, testify to the genuineness of the signatures on the petition, after which the officer before whom he has testified shall certify his testimony by appropriate notation attached to the petition.

Each petition shall be presented to the chairman of the board of elections of the county in which the signatures were obtained, and it shall be the chairman's duty:

1. To examine the signatures on the petition and place a check mark on the petition by the name of each signer who is qualified and registered to vote in his county.

2. To attach to the petition his signed certificate (a) stating that the signatures on the petition have been checked against the registration records and (b) indicating the number found qualified and registered to vote in his county.

3. To return each petition, together with the certificate required by the preceding paragraph, to the person who presented it to him for checking.

The group of petitioners shall pay to the chairman of the county board of elections a fee of five cents (5¢) for each signature he is required to examine and verify under the provisions of this subsection.

§163-97. Termination of status as political party.—When any political party fails to poll for its candidate for governor, or for presidential electors, at least ten per cent (10%) of the entire vote cast in the State for governor or for presidential electors at a general election, it shall cease to be a political party within the meaning of the primary and general election laws and all other provisions of this chapter.

§163-98. General election participation by new political party.—In the first general election following the date on which a new political party qualifies under the provisions of §163-96, it shall be entitled to have the names of its candidates for State, congressional, and national offices printed on the official ballots, but it shall not be entitled to have the names of candidates for other offices printed on State, district, or county ballots at that election.

For the first general election following the date on which it qualifies under §163-96, a new political party shall select its candidates by party convention. Following adjournment of the nominating convention, but not later than the first day of August prior to the general election, the president of the convention shall certify to the State Board of Elections the names of persons chosen in the convention as the new party's candidates for State, congressional, and national offices in the ensuing general election. The State Board of Elections shall print names thus certified on the appropriate ballots as the nominees of the new party.

§163-99 through §163-103 reserved for future use.

SUBCHAPTER V.

NOMINATION OF CANDIDATES

ARTICLE 10.

Primary Elections.

§163-104. Primaries governed by general election laws; authority of State Board of Elections to modify time schedule.—Unless otherwise provided in this chapter, primary elections shall be conducted as far as practicable, in accordance with the general election laws of this State. All provisions of this chapter and of other laws governing elections, not inconsistent with this article and other provisions of law dealing specifically with primaries, shall apply as fully to primary elections and to the acts and things done

thereunder as to general elections. Nevertheless, for purposes of primary elections the State Board of Elections may, by general rule, modify the time schedule prescribed by the general election laws for what seems to it good cause.

All acts made criminal if committed in connection with a general election shall likewise be criminal, with the same punishment, when committed in a primary election held under the provisions of this chapter.

§163-105. Payment of expense of conducting primary elections.—The expense of printing and distributing the poll and registration books, blanks, and ballots for those offices required by §163-108(b) to be furnished by the State, and the per diem and expenses of the State Board of Elections while engaged in the discharge of primary election duties imposed by law upon that Board, shall be paid by the State.

The expenses of printing and distributing the ballots for those offices required by §163-108(c) to be furnished by counties, and the per diem (or salary) and expenses of the county board of elections and the registrars and judges of election, while engaged in the discharge of primary election duties imposed by law upon them, shall be paid by the counties.

§163-106. Notices of candidacy; pledge; with whom filed; date for filing; withdrawal.—(a) *Notice and pledge:* No one shall be voted for in a primary election unless he shall have filed a notice of candidacy with the appropriate board of elections, State or county, as required by this section. To this end every candidate for selection as the nominee of a political party shall file with and place in the possession of the board of elections specified in subsection (c) of this section, a notice and pledge in the following form:

Date

I hereby file notice as a candidate for nomination as
in the Party Primary Election to be held on
....., 19.... I affiliate with the Party,
[and I certify that I am now registered on the registration records of the
precinct in which I reside as an affiliate of the Party.]
I pledge to abide by the results of the primary and to support in the next
general election all candidates nominated by the Party.
I further pledge that if I am defeated in the primary I will not run for
any office as a write-in candidate in the next general election.

(Signed)
Name of candidate

Witness:

.....
(Title of witness)

Each candidate shall sign his notice of candidacy in the presence of the chairman or secretary of the board of elections, State or county, with which he files. In the alternative, a candidate may have his signature on the notice of candidacy acknowledged and certified to by an officer authorized to take acknowledgments and administer oaths, in which case the candidate may mail his notice of candidacy to the appropriate board of elections.

In signing his notice of candidacy the candidate shall use only his legal name and, in his discretion, any nickname by which he is commonly known.

A notice of candidacy signed by an agent or any person other than the candidate himself shall be invalid.

Prior to the seventh Saturday before the primary, at State expense the State Board of Elections shall print and furnish to each county board of elections a sufficient number of the notice of candidacy forms prescribed by this subsection for use by candidates required to file with county boards of elections.

(b) *Eligibility to file:* No person shall be permitted to file as a candidate in a primary if, at the time he offers to file notice of candidacy, he is registered on the appropriate registration book or record as an affiliate of a political party other than that in whose primary he is attempting to file.

A person registered as an Independent shall be ineligible to file as a candidate in a primary election.

A person registered with no record of party affiliation shall be ineligible to file as a candidate in a primary election.

An unregistered person who desires to become a candidate in a party primary may do so if, at the time he files notice of candidacy, he signs and deposits with the election official with whom he files, a written pledge that he will, during the registration period prior to the next primary, register as an affiliate of the political party in whose primary he intends to run as a candidate. This may be accomplished by inserting in lieu of the bracketed phrase in the notice form set out in subsection (a) of this section, the following: "and I certify that I will register on the registration book or record of the precinct in which I reside as an affiliate of the Party prior to the date of the primary in which I seek nomination."

(c) *Time for filing notice of candidacy:* Candidates seeking party primary nomination for the following offices may file their notices of candidacy with the State Board of Elections at any time but shall do so not later than 12 o'clock, noon, on the Friday preceding the tenth Saturday before the primary election in which they seek to run:

Governor,
Lieutenant Governor,
all State executive officers,
justices of the Supreme Court,
judges of the superior courts,
judges of the district courts,
United States Senators,
members of the House of Representatives of the United States,
solicitors.

A candidate seeking party primary nomination for one of the following offices may file his notice of candidacy with the board of elections of the county in which he resides at any time but shall do so not later than 12 o'clock, noon, on the Friday preceding the sixth Saturday before the primary election in which he seeks to run:

State Senators,
members of the State House of Representatives,
all county offices,
all township offices.

(d) *Notice of candidacy for certain offices to indicate vacancy:* In any primary in which there are two or more vacancies for chief justice and associate justices of the Supreme Court, or two vacancies for United States Senator from North Carolina, or two or more vacancies for the office of

superior court judge to be filled by nominations, each candidate shall, at the time of filing notice of candidacy, file with the State Board of Elections a written statement designating the vacancy to which he seeks nomination. Votes cast for a candidate shall be effective only for his nomination to the vacancy for which he has given notice of candidacy as provided in this subsection.

A person seeking party nomination for a specialized district judgeship established under §7A-147 shall, at the time of filing notice of candidacy, file with the State Board of Elections a written statement designating the specialized judgeship to which he seeks nomination.

(e) *Withdrawal of notice of candidacy:* Any person who has filed notice of candidacy for an office shall have the right to withdraw it at any time prior to the date on which the right to file for that office expires under the terms of subsection (c) of this section.

§163-107. Filing fees required of candidates in primary; refunds.—

(a) *Fee schedule:* At the time of filing a notice of candidacy, each candidate shall pay to the board of elections with which he files under the provisions of §163-106 a filing fee for the office he seeks in the amount specified in the following tabulation:

<i>Office sought</i>	<i>Amount of filing fee</i>
Governor	One per cent (1%) of the annual salary of the office sought
Lieutenant Governor	One per cent (1%) of the annual salary of the office sought
All State executive offices	One per cent (1%) of the annual salary of the office sought
Justices of the Supreme Court	One per cent (1%) of the annual salary of the office sought
Judges of the Superior Courts	One per cent (1%) of the annual salary of the office sought
Judges of the District Courts	One per cent (1%) of the annual salary of the office sought
Solicitors	One per cent (1%) of the annual salary of the office sought
United States Senator	One per cent (1%) of the annual salary of the office sought
Members of the United States House of Representatives	One per cent (1%) of the annual salary of the office sought
State Senator	One per cent (1%) of the annual salary of the office sought
Member of the State House of Representatives	One per cent (1%) of the annual salary of the office sought
All county offices not compensated by fees	One per cent (1%) of the annual salary of the office sought

<i>Office sought</i>	<i>Amount of filing fee</i>
All township offices not compensated by fees	One per cent (1%) of the annual salary of the office sought
County commissioners, if compensated entirely by fees	\$10.00
Members of county board of education, if compensated entirely by fees	\$ 5.00
Sheriff, if compensated entirely by fees	\$40.00, plus one per cent (1%) of the income of the office above \$4,000.00
Clerk of superior court, if compensated entirely by fees	\$40.00, plus one per cent (1%) of the income of the office above \$4,000.00
Register of deeds, if compensated entirely by fees	\$40.00, plus one per cent (1%) of the income of the office above \$4,000.00
Any other county office, if compensated entirely by fees	\$20.00, plus one per cent (1%) of the income of the office above \$2,000.00
Constable, if compensated entirely by fees	\$10.00, plus one per cent (1%) of the income of the office above \$1,000.00
Justice of the peace, if compensated entirely by fees	\$10.00, plus one per cent (1%) of the income of the office above \$1,000.00
All county and township offices compensated partly by salary and partly by fees	One per cent (1%) of the first annual salary to be received (exclusive of fees)

(b) *Refund of fees:* If any person who has filed a notice of candidacy and paid the filing fee prescribed in subsection (a) of this section, withdraws his notice of candidacy within the period prescribed in §163-106(e), he shall be entitled to have the fee he paid refunded. If the fee was paid to the State Board of Elections, the chairman of that Board shall certify to the Auditor that the refund should be made, and the Auditor shall give his warrant upon the Treasurer of the State who shall make the refund payment. If the fee was paid to a county board of elections, the chairman of the board shall certify to the county accountant that the refund should be made, and the county accountant shall make the refund in accordance with the provisions of the County Fiscal Control Act.

If any person files a notice of candidacy and pays a filing fee to a board of elections other than that with which he is required to file under the provisions of §163-106(c), he shall be entitled to have the fee refunded in the manner prescribed in this subsection for refund upon withdrawal of candidacy if he requests the refund before 12 o'clock, noon, on Friday preceding the sixth Saturday before the primary.

§163-108. Certification of notices of candidacy.—(a) Within three days after the time for filing notices of candidacy with the State Board of Elections under the provisions of §163-106(c) has expired, the chairman or secretary of that Board shall certify to the Secretary of State the name, address, and party affiliation of each person who has filed with the State Board of Elections, indicating in each instance the office sought.

(b) Prior to the fourth Saturday before the primary election, the chairman of the State Board of Elections shall certify to the chairman of the county board of elections in each county in the appropriate district the names of candidates for nomination to the following offices who have filed the required notice and pledge and paid the required filing fee to the State Board of Elections, so that their names may be printed on the official county ballots:

superior court judge,
district court judge, and
solicitor.

(c) In representative districts composed of more than one county and in multi-county senatorial districts in which there is no rotation agreement as provided in §163-116, the chairman or secretary of the county board of elections in each county shall, within three days after the time for filing notices of candidacy under the provisions of §163-106(c) has expired, certify to the State Board of Elections (1) the names of all candidates who have filed notice of candidacy in his county for member of the State Senate, or, if such is the fact, that no candidates have filed in his county for that office, and (2) the names of all candidates who have filed notice of candidacy in his county for the office of member of the State House of Representatives, or, if such is the fact, that no candidates have filed in his county for that office. The chairman of the county board of elections shall forward a copy of this report to the chairman of the board of elections of each of the other counties in the representative or senatorial district. Within ten days after the time for filing notices of candidacy for those offices has expired, the chairman or secretary of the State Board of Elections shall certify to the chairman of the county board of elections in each county of each multi-county representative and senatorial district the names of all candidates for the House of Representatives and Senate which must be printed on the county ballots.

(d) Within two days after he receives each of the letters of certification from the chairman of the State Board of Elections required by subsections (b) and (c) of this section, each county elections board chairman shall acknowledge receipt by letter addressed to the chairman of the State Board of Elections.

§163-109. Primary ballots; printing and distribution.—(a) *General:* In primary elections there shall be as many kinds of official State, district, county and township ballots as there are legally recognized political parties, members of which have filed notice of their candidacy for nomination. The ballots for each political party shall be printed to conform to the requirements of §163-140(c) and to show the party's name, the name of each party member who has filed notice of candidacy, and the office for which each aspirant is a candidate.

Only those who have filed the required notice of candidacy and pledge with the proper board of elections, and who have paid the required filing

fee, shall have their names printed on the official ballots of the political party with which affiliated.

(b) *Ballots to be furnished by State Board of Elections:* It shall be the duty of the State Board of Elections to print official ballots for each political party having candidates for the following offices to be voted for in the primary:

United States Senator,
Member of the House of Representatives of the United States Congress,
Governor, and
All other State offices, except superior court judge, district court judge,
and solicitor.

In its discretion, the State Board of Elections may print separate primary ballots for each of these offices, or it may combine some or all of them on a single ballot.

At least thirty days before the date of the primary, the State Board of Elections shall deliver a sufficient number of these ballots to each county board of elections. The chairman of the county board of elections shall furnish the chairman of the State Board of Elections with a written receipt for the ballots delivered to him within two days after their receipt.

(c) *Ballots to be furnished by county board of elections:* It shall be the duty of the county board of elections to print official ballots for each political party having candidates for the following offices to be voted for in the primary:

Superior court judge,
District court judge,
Solicitor,
State Senator,
Member of the House of Representatives of the General Assembly,
All county offices, and
All township offices.

In printing primary ballots, the county board of elections shall be governed by instructions of the State Board of Elections with regard to width, color, kind of paper, form, and size of type.

In its discretion, the county board of elections may print separate primary ballots for the district, county, and township offices listed in this subsection, or it may combine some or all of them on a single ballot.

Three days before the primary election, the chairman of the county board of elections shall distribute official State, district, county, and township ballots to the registrar of each precinct in his county, and the registrar shall give him a receipt for the ballots received. On the day of the primary it shall be the registrar's duty to have all the ballots delivered to him available for use at the precinct voting place.

§163-110. Sole candidate declared nominee.—If only one aspirant files notice of candidacy for nomination for a given office by the party with which he affiliates, the appropriate board of elections shall, upon the expiration of the time fixed by §163-106 for filing notice of candidacy for that office, declare him the nominee of his party. For the following offices, this declaration shall be made by the county board of elections with which the aspirant filed notice of candidacy: all county offices, all township offices, State Senators in single-county senatorial districts, and members of the State House of Representatives in single-county representative districts. For all other

offices, this declaration shall be made by the State Board of Elections. When the sole aspirant has been declared his party's nominee for an office as provided in this section, his name shall not be printed on the primary ballot, but it shall be printed on the ballot to be voted at the general election as his party's candidate for that office.

§163-111. Determination of primary results; second primaries.—(a) *Nomination determined by majority; definition of majority:* Except as otherwise provided in this section, nominations in primary elections shall be determined by a majority of the votes cast. A majority within the meaning of this section shall be determined as follows:

1. If a nominee for a single office is to be selected, and there is more than one person seeking nomination, the majority shall be ascertained by dividing the total vote cast for all aspirants by two. Any excess of the sum so ascertained shall be a majority, and the aspirant who obtains a majority shall be declared the nominee.

2. If nominees for two or more offices (constituting a group) are to be selected, and there are more persons seeking nomination than there are offices, the majority shall be ascertained by dividing the total vote cast for all aspirants by the number of positions to be filled, and by dividing the result by two. Any excess of the sum so ascertained shall be a majority, and the aspirants who obtain a majority shall be declared the nominees. If more candidates obtain a majority than there are positions to be filled, those having the highest vote (equal to the number of positions to be filled) shall be declared the nominees.

(b) *Right to demand second primary:* If an insufficient number of aspirants receive a majority of the votes cast for a given office or group of offices in a primary, a second primary, subject to the conditions specified in this section, shall be held:

1. If a nominee for a single office is to be selected and no aspirant receives a majority of the votes cast, the aspirant receiving the highest number of votes shall be declared nominated by the appropriate board of elections unless the aspirant receiving the second highest number of votes shall request a second primary in accordance with the provisions of subsection (c) of this section. In the second primary only the two aspirants who received the highest and next highest number of votes shall be voted for.

2. If nominees for two or more offices (constituting a group) are to be selected and aspirants for some or all of the positions within the group do not receive a majority of the votes, those candidates equal in number to the positions remaining to be filled and having the highest number of votes shall be declared the nominees unless some one or all of the aspirants equal in number to the positions remaining to be filled and having the second highest number of votes shall request a second primary in accordance with the provisions of subsection (c) of this section. In the second primary to select nominees for the positions in the group remaining to be filled, the names of all those candidates receiving the highest number of votes and all those receiving the second highest number of votes and demanding a second primary shall be printed on the ballot.

(c) *Procedure for requesting second primary:*

1. An aspirant entitled to demand a second primary for one of the offices listed below, and desiring to do so, shall file a request for a second primary in writing or by telegram with the State Board of Elections by 12 o'clock, noon, on the third day after the result of the first primary has been officially declared:

Governor,
Lieutenant Governor,
All State executive officers,
Justices of the Supreme Court,
Judges of the superior courts,
Judges of the district courts,
United States Senators,
Members of the United States House of Representatives,
Solicitors,
State Senators in multi-county senatorial districts not having rotation agreements,
Members of the State House of Representatives in multi-county representative districts.

2. An aspirant entitled to demand a second primary for one of the offices listed below, and desiring to do so, shall file a written request for a second primary with the board of elections in the county in which he filed notice of candidacy by 12 o'clock, noon, on the fifth day after the result of the first primary has been officially declared:

State Senators in single-county senatorial districts
State Senators in multi-county senatorial districts having rotation agreements
Members of the State House of Representatives in single-county representative districts
All county officers
All township officers

(d) *Tie votes; how determined:*

1. In the event of a tie for the highest number of votes in a first primary between two candidates for party nomination for a single county, township, or single-county legislative district office (or for the State Senate in a multi-county district having a rotation agreement), the board of elections of the county in which the two candidates were voted for shall conduct a recount and declare the result. If the recount shows a tie vote, a second primary shall be held on the date prescribed in subsection (e) of this section between the two candidates having an equal vote, unless one of the aspirants, within three days after the result of the recount has been officially declared, files a written notice of withdrawal with the board of elections with which he filed notice of candidacy. Should that be done, the remaining aspirant shall be declared the nominee. In the event of a tie for the highest number of votes in a first primary among more than two candidates for party nomination for one of the offices mentioned in this paragraph, no recount shall be held, but all of the tied candidates shall be entered in a second primary.

2. In the event of a tie for the highest number of votes in a first primary between two candidates for a State office, for United States Senator, or for any district office (including State Senator in a multi-county senatorial district having no rotation agreement and member of the State House of Representatives in a multi-county representative district), no recount shall be held by reason of the tie, but the two candidates having an equal vote shall be entered in a second primary to be held on the date prescribed in subsection (e) of this section, unless one of the two candidates files a written notice of withdrawal with the State Board of Elections within three days after the result of the first primary has been officially declared and published. Should

that be done, the remaining aspirant shall be declared the nominee. In the event of a tie for the highest number of votes in a first primary among more than two candidates for party nomination for one of the offices mentioned in this paragraph, no recount shall be held, but all of the tied candidates shall be entered in a second primary.

3. In the event one candidate receives the highest number of votes cast in a first primary, but short of a majority, and two or more of the other candidates receive the second highest number of votes cast in an equal number, the proper board of elections shall declare the candidate having the highest vote to be the party nominee, unless all but one of the tied candidates give written notice of withdrawal to the proper board of elections within three days after the result of the first primary has been officially declared. If all but one of the tied candidates withdraw within the prescribed three-day period, and the remaining candidate demands a second primary in accordance with the provisions of subsection (c) of this section, a second primary shall be held between the candidate who received the highest vote and the remaining candidate who received the second highest vote.

(e) *Date of second primary; procedures:* If a second primary is required under the provisions of this section, the appropriate board of elections, State or county, shall order that it be held four weeks after the first primary.

There shall be no registration of voters between the dates of the first and second primaries. Persons whose qualifications to register and vote mature after the day of the first primary and before the day of the second primary may register on the day of the second primary and, when thus registered, shall be entitled to vote in the second primary. Subject to this provision for registration, the second primary shall be held under the laws, rules, and regulations provided for the first primary.

(f) *No third primary permitted:* In no case shall there be a third primary. The candidates receiving the highest number of votes in the second primary shall be nominated. If in a second primary there is a tie for the highest number of votes between two candidates, the proper party executive committee shall select the party nominee for the office in accordance with the provisions of §163-114.

§163-112. Death of candidate before primary; filling vacancy. If at the time the filing period closes only two persons have filed notice of candidacy for nomination by a given political party for a given office and thereafter, before the primary, one of the aspirants dies before the primary ballots are printed, the proper board of elections shall, upon notification of the death, immediately re-open the filing period for an additional five days during which additional candidates shall be permitted to file for the same party's nomination for the same office. If the primary ballots have been printed at the time the board of elections receives notice of the aspirant's death, it shall determine whether there will be sufficient time in which to reprint ballots before the primary in the event the filing period is re-opened for five days. If the board determines there will be sufficient time in which to reprint the ballots, it shall immediately re-open the filing period for an additional five days in which additional candidates shall be permitted to file for the same party's nomination for the same office. Should one or more persons file notice of candidacy during the extended filing period their names shall be printed on the primary ballots together with that of the aspirant who filed during the original filing period and shall be voted for in the primary.

If the primary ballots have been printed at the time the board of elections receives notice of the candidate's death, and if the board determines there

will not be sufficient time in which to reprint the ballots before the primary if the filing period is re-opened for five days, then, regardless of whether one or more aspirants filed for nomination by the deceased candidate's party for the same office, the primary ballots shall not be reprinted, and the name of the deceased candidate shall not be deleted, stricken, or obliterated from the ballots. In such a case, should the deceased candidate poll the highest number of votes in the primary for party nomination to the office he sought, even though short of a majority, the proper party executive committee shall appoint the party nominee under the provisions of §163-114. Should no candidate for the party nomination receive a majority of the votes cast in the primary and the second highest vote be cast for the deceased candidate, no second primary shall be held, and the proper board of elections shall declare the candidate receiving the highest vote the party's nominee for the office.

§163-113. Nominee's right to withdraw as candidate.—A person who has been declared the nominee of a political party for a specified office under the provisions of §163-175, §163-192, or §163-110, shall not be permitted to resign as a candidate unless, at least thirty days before the general election, he submits to the board of elections which certified his nomination a written request that he be permitted to withdraw.

§163-114. Filling vacancies among party nominees occurring after nomination and before election.—If any person nominated as a candidate of a political party for one of the offices listed below (either in a primary or convention or by virtue of having no opposition in a primary) dies, resigns, or for any reason becomes ineligible or disqualified before the date of the ensuing general election, the vacancy shall be filled by appointment according to the following instructions:

Position

*Vacancy is to be filled
by appointment of*

Any elective State office

State executive committee of
political party in which
vacancy occurs

United States Senator
A district office, including:
Member of the United States
House of Representatives
Judge of superior court
Judge of district court
Solicitor
State Senator in a multi-county
senatorial district not having
a rotation agreement
Member of State House of Repre-
sentatives in a multi-county
representative district

Appropriate district executive
committee of political party
in which vacancy occurs

State Senator in a single-county
senatorial district
State Senator in a multi-county
senatorial district having
a rotation agreement
Member of State House of Repre-
sentatives in a single-county
representative district
Any elective county office
Any elective township office

County executive committee of
political party in which
vacancy occurs, but if the
vacancy arises from a cause other
than death, the vacancy shall not
be filled unless the board of
elections in the county in which
the vacancy occurs issues an order
to that effect

The party executive committee making a nomination in accordance with the provisions of this section shall certify the name of its nominee to the chairman of the board of elections, State or county, charged with the duty of printing the ballots on which the name is to appear. If at the time a nomination is made under this section the general election ballots have already been printed, the provisions of §163-139 shall apply.

§163-115. Special provisions for obtaining nominations when vacancies occur in certain offices.—In the event a vacancy occurs in the office of clerk of superior court less than thirty days before a general election, the county executive committee of each political party shall make a nomination as provided in §163-114.

In the event a special election is called to fill a vacancy in the State's delegation in the United States House of Representatives, the provisions of §163-13 shall apply.

If a vacancy occurs in an elective State or district office (other than member of the United States House of Representatives) during the period opening ten days before the filing period for the office ends and closing thirty days before the ensuing general election, a nomination shall be made by the proper executive committee of each political party as provided in §163-114, and the names of the nominees shall be printed on the general election ballots, unless the ballots have already been printed when the nominations are made, in which case the provisions of §163-139 shall apply.

§163-116. Agreements for rotation of candidates in senatorial districts of more than one county.—When any senatorial district consists of two or more counties, in one or more of which the manner of nominating candidates for legislative offices is regulated by statute, and the privilege of selecting the candidate for Senator, or any one of the candidates for Senator, of any political party (as the words "political party" are defined in §163-96) in the senatorial district, is, by agreement of the several executive committees representing that political party in the counties constituting the district, conceded to one county therein, such candidate may be selected in the same manner as the party's candidates for county officers in the county, whether in pursuance of statute or under the plan of organization of such party. All nominations of party candidates for the office of Senator, made as hereinbefore provided, shall be certified by the chairman of the county board of elections of the county in which the nomination is made, to each chairman of the county board of elections in all of the counties constituting the senatorial district, and it shall be the duty of each chairman of the other counties to which the nominations are certified to print the name or names of the nominee or nominees on the official county ballot for the general election.

§163-117 through §163-121 reserved for future use.

ARTICLE 11.

Nomination by Petition.

§163-122. Independent candidates nominated by petition.—Any qualified voter who seeks to have his name printed on the general election ballot as an independent or non-partisan candidate shall:

1. On or before the last Saturday in May preceding the general election, file with the appropriate board of elections, State or county, written petitions requesting him to be a candidate for a specified office, signed

by qualified voters of the political division in which the office will be voted for equal in number to twenty-five per cent (25%) of those who, in the last gubernatorial election in the same political division, voted for Governor.

2. At the time of filing the petitions referred to in paragraph 1 of this section, file with the appropriate board of elections his affidavit that he seeks to become an independent or non-partisan candidate for the office specified and that he does not affiliate with any political party.

When the provisions of this section have been complied with, the board of elections with which the petitions and affidavit have been filed shall cause the independent candidate's name to be printed on the general election ballots in accordance with the provisions of §163-140.

§163-123 through §163-127 reserved for future use.

SUBCHAPTER VI. CONDUCT OF PRIMARIES AND ELECTIONS

ARTICLE 12.

Precincts and Voting Places.

§163-128. Election precincts and voting places established or altered.— Each county shall be divided into a convenient number of precincts for purposes of registration and voting, but no precinct shall encompass territory from more than one township. There shall be one voting place in each precinct conveniently located for a majority of the voters therein.

The county board of elections may adopt the present election precincts and voting places, or by resolution it may establish new ones, but the precincts and voting places fixed in each county shall remain as they now are until altered.

The county board of elections shall have power from time to time, by resolution, to establish, alter, discontinue, or create such new election precincts and voting places as it may deem expedient. Upon adoption of a resolution establishing, altering, or discontinuing a precinct or voting place the county board of elections shall give twenty days' notice thereof prior to the beginning of the registration period at which it is to take effect, by advertising in some newspaper having general circulation in the county, or in lieu thereof, at the courthouse door and at three other public places in the county.

§163-129. Structure at voting place; marking off limits of voting place.— At the voting place in each precinct established under the provisions of §163-128, the county board of elections shall provide or procure by lease or otherwise a suitable structure or part of a structure in which registration and voting may be conducted. To this end, the county board of elections shall be entitled to demand and use any school or other state, county, or municipal building, or a part thereof, for the purpose of conducting registration and voting for any primary or election, and it may require that the requisitioned premises, or a part thereof, be vacated for these purposes.

The county board of elections shall inspect each precinct voting place to ascertain how it should be arranged for voting purposes. In its discretion, the county board of elections may direct the registrar and judges of any precinct to define the voting place by roping off the area or otherwise enclosing it to insure that at no point the limits lie more than one hundred

feet from the ballot boxes or voting machines. The space roped off or enclosed for the voting place may contain area both inside and outside the structure in which registration and voting are to take place.

§163-130 through §163-134 reserved for future use.

ARTICLE 13.

General Instructions.

§163-135. Applicability of article.—(a) *In general:* The provisions of this article shall apply to all elections in all counties, cities, towns, townships, and school districts in the State of North Carolina.

(b) *Primary elections:* The provisions of this article shall apply to all primary elections held in this State, or in any county, as fully as it applies to general elections.

(c) *Special elections:* Every election held in pursuance of a writ from the Governor shall be conducted in accordance with the provisions of this article, so far as the particular case can be governed by general rules.

(d) *Referenda:* This article shall apply to and control all elections for the issuance of bonds and to all other elections in which any constitutional amendment, question, or issue is submitted to a vote of the people.

(e) *Municipal primaries and elections:* With respect to all municipal primaries and elections, wherever in this article appear the words "county board of elections" shall be deemed to be written the words "city or town governing body"; and wherever appear the words "chairman of board of elections" shall be deemed to be written the words "mayor of town or city."

§163-136. Preparation, distribution, and financing of ballots.—(a) *Ballots a public expense:* All ballots cast in the elections, primaries, and referenda listed below shall be printed and distributed at public expense:

1. General and special elections for national, State, district, county, and municipal offices in the counties, districts, cities, towns and other political subdivisions of the State.

2. Primaries for nomination of candidates for the offices listed in the preceding paragraph.

3. Elections or referenda for the issuance of bonds.

4. Elections or referenda in which any constitutional amendment, question or issue is submitted to a vote of the people.

(b) *Printing and distribution:* The printing and distribution of ballots shall be arranged, handled, and paid for as follows:

1. For municipal elections, primaries, and referenda, by the municipal authorities conducting the election, primary, or referendum, at the expense of the municipality.

2. For county, township, single-county district, and legislative district elections, primaries, and referenda, by the responsible county board of elections, at the expense of the county.

3. For all elections, primaries, and referenda not specified in the two preceding paragraphs, by the State Board of Elections, at the expense of the State.

(c) *Paper ballots for general elections where voting machines are used:* In counties in which voting machines are used at some or all voting places, paper ballots shall be printed for purposes of absentee voting in State-wide general elections under the provisions of Articles 20 and 21.

§163-137. General and special election ballots; names and questions to be

printed thereon; distribution.—(a) The ballots printed for use in general and special elections under the provisions of this article shall contain:

1. The names of all candidates who have been put in nomination in accordance with the provisions of this chapter by any political party recognized in this State.

2. The names of all persons who have qualified as independent candidates under the provisions of §163-122.

3. All questions, issues, and propositions to be voted on by the people.

(b) The ballots prepared for use in general and special elections under the provisions of this article by the State Board of Elections shall be printed and delivered to the county boards of elections at least forty-five days prior to the date of any election in which absentee voting is permitted and at least thirty days prior to the date of any election in which absentee voting is not permitted.

§163-138. Instructions for printing names on primary and election ballots.

—In preparing primary, general, and special election ballots, the legal name of a candidate (together with his nickname in the situation outlined below) shall be printed precisely as it appears on the notice of candidacy form filed in accordance with §163-106 or in petition forms filed in accordance with §163-122. If the candidate has inserted a nickname on the notice of candidacy or in the petition, it shall be printed on the ballot immediately before the candidate's surname and shall be enclosed by parenthesis. No title, appendage, or appellation indicating rank, status, or position, shall be printed before or following or as a nickname or in connection with the name of any candidate on any ballot. Nevertheless, a candidate who is a married woman may use the prefix "Mrs." and a candidate who is a single woman may use the prefix "Miss" before her name if she so elects.

§163-139. Reprinting ballots when substitute candidate is named.—(a)

Before general or special election: After the official ballots for a general or special election have been printed by the proper elections board, the death, resignation, or disqualification of a candidate whose name appears on the official ballots shall not require that the ballots be reprinted, although the responsible board of elections may have the ballots reprinted if it desires to do so.

If a candidate dies, resigns, or otherwise becomes disqualified after his name has been printed on an official general or special election ballot, and if a nomination has been made to fill the vacancy as authorized by §163-114, the name of the substituted nominee shall not appear on the official ballots unless the responsible board of elections decides that it is feasible and advisable to reprint the ballots to show the name of the substituted nominee. If the ballots are not reprinted, a vote cast for the candidate whose name is printed on the ballot shall be counted as a vote for the substituted candidate whose name has been certified to the appropriate board of elections under the provisions of §163-114.

(b) *Before primary election:* The provisions of §163-112 shall apply in the event a candidate for party nomination dies before the primary.

§163-140. Kinds of ballots; what they shall contain; arrangement.—(a)

Kinds of general election ballots; right to combine. For purposes of general elections, there shall be seven kinds of official ballots, entitled:

1. Ballot for Presidential Electors
2. Ballot for United States Senator
3. Ballot for Member of the United States House of Representatives

4. State Ballot
5. County Ballot
6. Township Ballot
7. Ballot for Constitutional Amendments and Other Propositions Submitted to the People

Use of official ballots shall be limited to the purposes indicated by their titles. The printing on all ballots shall be plain and legible but, unless large type is specified by this section, type larger than ten-point shall not be used in printing ballots. All general election ballots shall be prepared in such a way as to leave sufficient blank space beneath each name printed thereon in which a voter may conveniently write the name of any person for whom he may desire to vote.

Unless prohibited by this section, the board of elections, State or county, charged by law with printing ballots may, in its discretion, combine any two or more official ballots. Whenever two or more ballots are combined, the voting instructions for the State ballot set out in subsection (b) (4) of this section shall be used.

(b) *General election ballots.*

(1) *Ballot for Presidential Electors:* On the ballot for presidential electors there shall be printed, under the titles of the offices, the names of the candidates for President and Vice-President of the United States nominated by each political party qualified under the provisions of §163-96. A separate column shall be assigned to each political party with candidates on the ballot, and the party columns shall be separated by distinct black lines. At the head of each column the party name shall be printed in large type and below it a circle, one-half inch in diameter, and below the circle the names of the party's candidates for President and Vice-President in that order. On the face of the ballot, above the party column division, the following instructions shall be printed in heavy black type:

- "1. To vote this ballot, make a cross (X) mark in the circle below the name of the political party for whose candidates you wish to vote.
2. A vote for the names of a political party's candidates for President and Vice-President is a vote for the electors of that party, the names of whom are on file with the Secretary of State.
3. If you tear or deface or wrongly mark this ballot, return it and get another."

On the bottom of the ballot shall be printed an identified facsimile of the signature of the chairman of the State Board of Elections.

The official ballot for presidential electors shall not be combined with any other official ballots.

(2) *Ballot for United States Senator:* Beneath the title and general instructions set out in this subsection, the ballot for United States Senator shall be divided into parallel columns separated by distinct black lines. The State Board of Elections shall assign a separate column to each political party having a candidate for the office and one to independent candidates, if any. At the head of each party column the party's name shall be printed in large type, and at the head of the column for independent candidates shall be printed in large type the words "Independent Candidates." The name of each political party's candidate for United States Senator shall be printed in the appropriate party column, and the names of independent candidates for the office shall be printed in the column headed "Independent Candidates." At the left of each name shall be printed a voting square, and in each column all voting

squares shall be arranged in a perpendicular line. On the face of the ballot, above the party and independent column division, the following instructions shall be printed in heavy black type:

1. Vote for only one candidate.
2. If you tear or deface or wrongly mark this ballot, return it and get another."

On the bottom of the ballot shall be printed an identified facsimile of the signature of the chairman of the State Board of Elections.

When the ballot for United States Senator is combined with a ballot for another office, below the party name in each column shall be printed a circle, one-half inch in diameter, around which shall be plainly printed the following instruction: "For a straight ticket, mark within this circle." The following instructions, in lieu of those specified in the preceding paragraph, shall be printed in heavy black type on the face of the combined ballot at the top above the party and independent column division.

1. To vote for all candidates of one party (a straight ticket), make a cross (X) mark in the circle of the party for whose candidates you wish to vote.
2. To vote for candidates of more than one party (a split ticket), do not mark in any party circle, but make a cross (X) mark in the square opposite the name of each candidate for whom you wish to vote.
3. If you tear or deface or wrongly mark this ballot, return it and get another."

(3) *Ballot for Member of the United States House of Representatives:* Beneath the title and general instructions set out in this subsection, the congressional district ballot for member of the United States House of Representatives shall be divided into parallel columns separated by distinct black lines. The State Board of Elections shall assign a separate column to each political party having a candidate for the office and one to independent candidates, if any. At the head of each party column the party's name shall be printed in large type, and at the head of the column for independent candidates shall be printed in large type the words "Independent Candidates." The name of each political party's candidate for member of the United States House of Representatives from the congressional district shall be printed in the appropriate party column, and the names of independent candidates for the office shall be printed in the column headed "Independent Candidates." At the left of each name shall be printed a voting square, and in each column all voting squares shall be arranged in a perpendicular line. On the face of the ballot, above the party and independent column division, the following instructions shall be printed in heavy black type:

1. Vote for only one candidate.
2. If you tear or deface or wrongly mark this ballot, return it and get another."

On the bottom of the ballot shall be printed an identified facsimile of the signature of the chairman of the State Board of Elections.

When the ballot for member of the United States House of Representatives is combined with a ballot for another office, below the party name in each column shall be printed a circle, one-half inch in diameter, around which shall be plainly printed the following instruction: "For a straight ticket, mark within this circle." The following instructions, in lieu of those specified in the preceding paragraph, shall be printed in heavy black type on the face

of the combined ballot at the top above the party and independent column division:

- “1. To vote for all candidates of one party (a straight ticket), make a cross (X) mark in the circle of the party for whose candidates you wish to vote.
2. To vote for candidates of more than one party (a split ticket), do not mark in any party circle, but make a cross (X) mark in the square opposite the name of each candidate for whom you wish to vote.
3. If you tear or deface or wrongly mark this ballot, return it and get another.”

(4) *State Ballot*: Beneath the title and general instructions set out in this subsection, the ballot for State officers (including judges of the superior court) shall be divided into parallel columns separated by distinct black lines. The State Board of Elections shall assign a separate column to each political party having candidates for State offices and one to independent candidates, if any. At the head of each party column the party's name shall be printed in large type, and at the head of the column for independent candidates shall be printed in large type the words “Independent Candidates.” Below the party name in each column shall be printed a circle, one-half inch in diameter, around which shall be plainly printed the following instruction: “For a straight ticket, mark within this circle.” With distinct black lines, the State Board of Elections shall divide the columns into horizontal sections and, in the customary order of office, assign a separate section to each office or group of offices to be filled. On a single line at the top of each section shall be printed the title of the office, and directly below the title shall be printed a direction as to the number of candidates for whom a vote may be cast. If candidates are to be chosen for different terms to the same office, the term in each instance shall be printed as part of the title of the office.

The name or names of each political party's candidate or candidates for each office listed on the ballot shall be printed in the appropriate office section of the proper party column, and the names of independent candidates shall be printed in the appropriate office section of the column headed “Independent Candidates.” At the left of each name shall be printed a voting square, and in each column all voting squares shall be arranged in a perpendicular line.

On the face of the ballot, above the party and independent column division, the following instructions shall be printed in heavy black type:

- “1. To vote for all candidates of one party (a straight ticket), make a cross (X) mark in the circle of the party for whose candidates you wish to vote.
2. To vote for candidates of more than one party (a split ticket), do not mark in any party circle, but make a cross (X) mark in the square opposite the name of each candidate for whom you wish to vote.
3. If you should insert a cross (X) mark in one of the party circles at the top of the ballot and also mark in the voting square opposite the name of any candidate of any party, your ballot will be counted as a straight ticket vote for all of the candidates of the party whose circle you marked.
4. If you tear or deface or wrongly mark this ballot, return it and get another.”

On the bottom of the ballot shall be printed an identified facsimile of the signature of the chairman of the State Board of Elections.

(5) *County Ballot*: Beneath the title and general instructions set out in this subsection, the ballot for county officers (including solicitor for the solicitorial district in which the county is situated, district judge for the district court district in which the county is situated, and members of the General Assembly in the senatorial and representative districts in which the county is situated) shall be divided into parallel columns separated by distinct black lines. The county board of elections shall assign a separate column to each political party having candidates for the offices on the ballot and one to independent candidates, if any. At the head of each party column the party's name shall be printed in large type, and at the head of the column for independent candidates shall be printed in large type the words "Independent Candidates." Below the party name in each column shall be printed a circle, one-half inch in diameter, around which shall be plainly printed the following instruction: "For a straight ticket, mark within this circle." With distinct black lines, the county board of elections shall divide the columns into horizontal sections and, in the customary order of office, assign a separate section to each office or group of offices to be filled. On a single line at the top of each section shall be printed the title of the office, and directly below the title shall be printed a direction as to the number of candidates for whom a vote may be cast. If candidates are to be chosen for different terms to the same office, the term in each instance shall be printed as part of the title of the office.

The name or names of each political party's candidate or candidates for each office listed on the ballot shall be printed in the appropriate office section of the proper party column, and the names of independent candidates shall be printed in the appropriate office section of the column headed "Independent Candidates." At the left of each name shall be printed a voting square, and in each column all voting squares shall be arranged in a perpendicular line.

On the face of the ballot, above the party and independent column division, the following instructions shall be printed in heavy black type:

1. To vote for all candidates of one party (a straight ticket), make a cross (X) mark in the circle of the party for whose candidates you wish to vote.
2. To vote for candidates of more than one party (a split ticket), do not mark in any party circle, but make a cross (X) mark in the square opposite the name of each candidate for whom you wish to vote.
3. If you should insert a cross (X) mark in one of the party circles at the top of the ballot and also mark in the voting square opposite the name of any candidate of any party, your ballot will be counted as a straight ticket vote for all of the candidates of the party whose circle you marked.
4. If you tear or deface or wrongly mark this ballot, return it and get another."

On the bottom of the ballot shall be printed an identified facsimile of the signature of the chairman of the county board of elections.

(6) *Township Ballot*: The township ballot shall contain the names of candidates for constable and justices of the peace, and shall be prepared by the county board of elections in conformity with the instructions prescribed in this section for the county ballot.

(7) *Ballot for Constitutional Amendments and Other Propositions Submitted to the People*: The form of ballot used in submitting a constitutional

amendment or other proposition or issue to the voters of the entire State shall be prepared by the State Board of Elections and approved by the Attorney General. The form of ballot used in submitting propositions and issues to the voters of a single county or subdivision shall be prepared by the county board of elections. In a referendum the issue presented to the voters with respect to each constitutional amendment, question, or proposition, shall be printed in the form laid down by the General Assembly or other body submitting it. If more than one amendment, question, or proposition is submitted on a single ballot, each shall be printed in a separate section, and the sections shall be numbered consecutively. On the face of the ballot, above the issue or issues being submitted, shall be printed instructions for marking the voter's choice, in addition to the following instruction: "If you tear or deface or wrongly mark this ballot, return it and get another." On the bottom of the ballot shall be printed an identified facsimile of the signature of the chairman of the responsible board of elections, State or county.

(c) *Primary election ballots.*

(1) *Kinds of primary ballots; right to combine:* For purposes of primary elections, there shall be five kinds of official ballots, entitled:

1. Primary Ballot for United States Senator
2. Primary Ballot for Member of the United States House of Representatives.
3. State Primary Ballot
4. County Primary Ballot
5. Township Primary Ballot

Use of official primary ballots shall be limited to the purposes indicated by their titles. The printing on all primary ballots shall be plain and legible but, unless large type is specified by this chapter, type larger than ten-point shall not be used in printing primary ballots.

Primary ballots shall be prepared in accordance with the provisions of §163-109 and the provisions of this section as modified by the provisions of this subsection.

(2) *Separate ballots for each political party:* For each political party conducting a primary election separate ballots shall be printed, and the paper used for each party's ballots shall be different in color from that used for the ballots of other parties. Primary ballots shall not provide for voting a straight party ticket, but a voting square shall be printed to the left of the name of each candidate appearing on the ballot.

(3) *Rotation of positions on ballots among candidates:* The board of elections, State or county, responsible for printing and distributing primary election ballots shall have them printed so that the names of opposing candidates for any office shall, as far as practicable, occupy alternate positions upon the ballot, to the end that the name of each candidate shall occupy with reference to the name of every other candidate for the same office, first position, second position, and every other position, if any, upon an equal number of ballots; and the ballots shall be distributed among the precinct voting places impartially and without discrimination.

(4) *Facsimile signatures:* On the bottom of each primary ballot shall be printed an identified facsimile of the signature of the chairman of the board of elections, State or county, responsible for its preparation.

(d) *Municipal primary and election ballots:* In all city and town primaries and elections there shall be an official ballot on which shall be printed the names of all candidates for offices in the city or town. The municipal ballot

shall conform as nearly as possible to the provisions of subsections (a) through (c) of this section, but on the bottom of the municipal ballot shall be printed an identified facsimile of the signature of the city or town clerk.

§163-141. Sample ballots.—Sample ballots of each kind to be voted in each primary and election shall be printed by the board of elections responsible for printing the official ballots. Sample ballots shall be printed on paper of a color different from that used for the official ballots, and each sample ballot shall have the words "Sample Ballot" printed conspicuously on its face. Sample ballots shall be used for instructional purposes and shall not be used as official ballots.

The State Board of Elections shall distribute the sample ballots for which it is responsible to the county boards of elections at the time it distributes the official ballots; and the county board of elections, at the time it is required to distribute official ballots, shall furnish each precinct registrar with an adequate supply of the sample ballots prepared by the State Board of Elections as well as of those the county board is required to prepare.

§163-142. Number of ballots to be furnished each voting place; packaging; date of delivery; receipt for ballots; accounting for ballots.—The county board of elections shall furnish each precinct voting place with each kind of ballot to be voted in the primary or election in a number equal to one hundred five per cent (105%) of the number of persons registered to vote in the primary or election in the precinct.

Each kind of ballot shall be wrapped in a separate package or packages for each precinct voting place. The number of ballots to be placed in each package shall be determined by the chairman of the county board of elections, and the outside of each package shall be marked or stamped to show the kind of ballot and the number contained.

Three days before the primary or election, the county board of elections shall deliver to each precinct registrar the required number of ballots of each kind to be voted in his precinct, and the registrar shall immediately give a receipt for the ballots delivered to him in accordance with the information marked or stamped on the ballot packages.

Within three days after the primary or election, the registrar shall deliver to the county board of elections all ballots spoiled in his precinct. At the same time he shall also deliver to the county board of elections all unused ballots from his precinct. Thereupon, the county board of elections shall make a check to ascertain whether the total of spoiled ballots and unused ballots, when added to the number of ballots cast in the precinct, equal the total number of ballots furnished to and received for by the registrar prior to the primary or election.

The provisions of this section shall not apply to voting places at which voting machines are used.

§163-143. Ballot boxes to be furnished each voting place; date of delivery; receipt for boxes.—The county board of elections shall furnish each precinct voting place with a ballot box for each kind of ballot to be voted in the primary or election, together with one additional box in which spoiled ballots are to be deposited. Each box shall be plainly marked to indicate the ballots to be deposited therein, and the extra box to be delivered to each precinct shall be marked "For Spoiled Ballots."

Each ballot box shall be designed so that it may be locked and sealed and shall be constructed with an opening in the top large enough to allow a single ballot to be easily passed through, but no larger. At the time ballot

boxes are delivered to the precinct, the chairman of the county board of elections shall furnish each registrar with a lock and proper seals for each box to be used in his precinct, with instructions as to how each box is to be securely locked and sealed in compliance with §163-171.

Three days before the primary or election, the county board of elections shall deliver to each precinct registrar the number of ballot boxes required for his precinct, and the registrar shall immediately give a receipt for them.

The provisions of this section shall not apply to voting places at which voting machines are used.

§163-144. Lost, destroyed, damaged, and stolen ballots; replacement; report.—Should official ballots furnished to any precinct in accordance with the provision of this chapter be lost, destroyed, damaged, or stolen, the county board of elections, upon ascertaining that a shortage of ballots exists in the precinct, shall furnish the needed replacement ballots.

Within three days after the primary or election, the registrar of the precinct in which the loss occurred shall make a written report, under oath, to the county board of elections describing in detail the circumstances of the loss, destruction, damage, or theft of the ballots.

§163-145. Voting booths; description; provision.—The county board of elections shall furnish each voting place with at least one voting booth for each one hundred persons qualified to vote in the precinct. Each voting booth shall be at least three feet square and six feet high; it shall have three sides and a door or curtain in front. The bottom of the door or curtain shall hang two feet above the floor. Each voting booth shall be equipped with a table or shelf on which voters may conveniently mark their ballots.

The provisions of this section shall not apply to voting places at which voting machines are used.

§163-146. Voting enclosure at voting place; furnishings; arrangement.—At each precinct voting place as described in §163-129, there shall be a room or area set apart as the voting enclosure. The limits of the voting enclosure shall be defined by walls or guard-rails which at no point stand nearer than ten feet nor farther than twenty feet from the ballot boxes or voting machines. This enclosure shall be arranged so that a single door or opening (not more than three feet wide) can be used as both the entrance and exit for persons seeking to vote.

Within the voting enclosure and in plain view of the qualified voters present at the voting place shall be placed:

1. A table or desk on which the registrar shall place and use the precinct registration books and records.
2. A table or desk on which the responsible judge shall place and superintend the ballots for distribution and the box for spoiled ballots.
3. A table or desk on which the responsible judge shall place and maintain the poll book.
4. The ballot boxes.
5. The voting booths.

All voting booths and ballot boxes shall be placed in plain view of the registrar and judges as well as of the qualified voters present at the voting place.

The registrar's table shall be placed near the entrance to the voting enclosure.

Each voting booth shall be located and arranged so that it is impossible

for a voter in one booth to see a voter in another booth in the act of marking his ballots. Each voting booth shall be kept properly lighted and provided with pencils or pens for marking ballots.

In precincts in which voting machines are used, ballot boxes and voting booths shall not be used. Within the voting enclosure at the voting place in such a precinct, each machine shall be placed so that the exterior from all its sides is visible and so that whenever it is not in use by a voter the ballot labels on its face may be plainly seen by the precinct officials and assistants, and by watchers appointed under the provisions of §163-45. Precinct election officials and assistants shall not place themselves, nor shall they permit any other person to place himself, in any position that will permit one to see or ascertain how a voter votes on a voting machine except when the voter obtains assistance as provided in this chapter.

No political banner, poster, or placard shall be allowed in or upon the voting place during the day of a primary or election.

§163-147. No loitering or electioneering allowed within fifty feet of voting place.—No person shall, while the polls are open at the voting place on the day of a primary or election, loiter about or do any electioneering within the voting place or within fifty feet thereof.

§163-148. Procedures at voting place before polls are opened.—At least one-half hour before the time set for opening the polls for each primary and election, the judges of elections, assistants, and, if allowed, official markers, shall meet the registrar at the precinct voting place, at which time the registrar shall administer to them the appropriate oaths set out in §163-41(a), §163-42, and §163-44.

The registrar and judges shall arrange the voting enclosure according to the requirements of §163-146 and the instructions of the county board of elections. They shall then unlock the official ballot boxes, see that they are empty, allow authorized watchers and other electors present to examine the boxes, and then they shall relock them while still empty. They shall open the sealed packages of ballots, and one of the judges, at the registrar's request, shall announce that the polls are open and state the hour at which they will be closed.

If voting machines are used in the precinct, immediately before the polls are opened the registrar and judges shall open each voting machine, examine the ballot labels, and check the counters to see that they are set to indicate that no votes have been cast or recorded; at the same time, the precinct officials shall allow authorized watchers and other electors present to examine the machines. If found to be in order and the ballot labels in proper form, the precinct officials shall lock and seal each machine, and it shall remain locked until after the polls are closed.

§163-149. Protection of ballots, ballot boxes, poll book, and registration records on day of primary or election.—When the empty official ballot boxes have been relocked after the inspection required by §163-148 before the polls are opened on the day of each primary and election, they shall not be unlocked or opened until the polls are closed.

Only official ballots shall be allowed to be deposited in the ballot boxes, and no other articles or matter shall be placed in them.

No person shall purposely deface or tear an official ballot in any manner, and no person shall purposely erase any name or mark written on a ballot by a voter.

From the time the polls are opened until the precinct count has been

completed, the returns signed, and the results declared, no person shall take or remove from the voting enclosure the official ballot boxes, the box for spoiled ballots, the poll book, the registration book or records, or any official ballots.

§163-150. Voting procedures.—(a) *Checking registration:* A person seeking to vote shall enter the voting enclosure at the voting place through the appropriate entrance and shall at once state his name and place of residence to one of the judges of election. In a primary election, the voter shall also state the political party with which he affiliates and in whose primary he desires to vote. The judge to whom the voter gives this information shall announce the name and residence of the voter in a distinct tone of voice. After examining the precinct registration records, the registrar shall state whether the person seeking to vote is duly registered.

(b) *Distribution of ballots; information:* If the voter is found to be registered and is not challenged, or, if challenged and the challenge is overruled as provided in §163-88, the responsible judge of election shall hand him an official ballot of each kind he is entitled to vote. In a primary election the voter shall be furnished ballots of the political party with which he affiliates and no others. It shall be the duty of the registrar and judges holding the primary or election to give any voter any information he desires in regard to the kinds of ballots he is entitled to vote and the names of the candidates on the ballots. In response to questions asked by the voter, the registrar and judges shall communicate to him any information necessary to enable him to mark his ballot as he desires.

(c) *Act of voting:* When a person is given official ballots by the judge, he shall be deemed to have begun the act of voting, and he shall not leave the voting enclosure until he has deposited his ballots in the ballot boxes or returned them to the precinct officials. When he leaves the voting enclosure, whether or not he has deposited his ballots in the ballot boxes, he shall not be entitled to enter the voting enclosure again for the purpose of voting. On receiving his ballots, the voter shall immediately retire alone to one of the voting booths unless he is entitled to assistance under the provisions of §163-152, and without undue delay he shall mark his ballots in accordance with the provisions of §163-151. No voter shall be allowed to occupy a booth already occupied by another, and no voter shall be allowed to occupy a booth more than five minutes if all the booths are in use and other voters are waiting to obtain booths.

(d) *Spoiled and damaged ballots:* If a voter spoils or damages a ballot, he may obtain another upon returning the spoiled or damaged ballot to the registrar. A voter shall not be given a replacement ballot until he has returned the spoiled or damaged ballot, and he shall not be given more than three replacement ballots, in all. The registrar shall deposit each spoiled or damaged ballot in the box provided for that purpose.

(e) *Depositing ballots and leaving enclosure:* When the voter has marked his ballots he shall leave the voting booth and deposit them in the appropriate boxes or hand them to the registrar or a judge who shall deposit them for him. If he does not mark a ballot he shall return it to one of the precinct officials before leaving the voting enclosure. If the voter has been challenged and the challenge has been overruled, before depositing his ballots in the boxes he shall write his name on each of his ballots so they may be identified in the event his right to vote is again questioned. After depositing his ballots in the ballot boxes, the voter shall immediately leave the voting enclosure unless he is

one of the persons authorized by law to remain within the enclosure for purposes other than voting.

(f) *Maintenance of poll book or other record of voting:* At each primary and election, one of the judges designated by the registrar shall keep the poll book in which he shall enter the name of every person who shall vote. In a primary election each voter's party affiliation shall be entered in the proper column of the book opposite his name. The judge shall make each entry at the time ballots are handed to the voter. As soon as the polls are closed and the names of absentee voters have been entered as required by §163-234, the registrar and judges of election shall sign the poll book immediately beneath the last voter's name entered therein. The registrar or the judge appointed to attend the county canvass shall deliver the poll book to the chairman of the county board of elections at the time of the county canvass, and the chairman shall remain responsible for its safekeeping.

In counties which adopt full-time and permanent registration, no poll book shall be required; in lieu thereof, a permanent poll record shall be kept upon the registration certificates in a form approved by the county board of elections.

§163-151. Method of marking ballots in primary and election.—The voter shall adhere to the following rules in marking his ballots:

(a) *In both primaries and elections:*

1. A voter may designate his choice of candidate by making a cross (X) mark, a check mark, or some other clear indicative mark in the appropriate voting square or circle.

2. A voter should not mark more names for any office than there are positions to be filled by election.

3. A voter should not affix a sticker to a ballot, mark a ballot with a rubber stamp, attach anything to a ballot, wrap or fold anything in a ballot, or do anything to a ballot other than mark it properly with pencil or pen.

4. A voter should follow the instructions printed on the ballot.

(b) *In an election but not in a primary:*

1. If a voter desires to vote for all candidates of one political party (a straight ticket) he shall either:

a. Make a cross (X) mark in the circle printed below the name of the party at the top of the ballot; or

b. Make a cross (X) mark in the voting square at the left of the name of every candidate of the party printed on the ballot.

2. If a voter desires to vote for candidates of more than one political party (a split ticket), he shall not mark in the circle printed below the name of any party on the ballot; instead, he shall make a cross (X) mark in the voting square at the left of the name of each candidate for whom he desires to vote without regard to the party column in which the names are printed.

3. If a voter desires to vote for a person whose name is not printed on the ballot, he shall write the name of the person for whom he wishes to vote in the space immediately beneath the name of a candidate printed in the section of the ballot assigned to the particular office. In such a situation, the voter shall write the name himself unless he is receiving assistance to which he is entitled under the provisions of §163-152, in which case the person rendering assistance may write the name for the voter under his direction.

4. In elections for county offices in Bertie County, in elections for municipal offices in the towns of Clayton in Johnston County, Elm City in Wilson County, Fremont in Wayne County, Gaston in Northampton County, Roseboro

in Sampson County, Snow Hill in Greene County, Tarboro in Edgecombe County, and Weldon in Halifax County, and in elections for municipal offices in all the municipalities in Bertie and Franklin counties, if there are multiple positions to be filled in a single office, the voter shall cast his vote for as many candidates as there are positions to be filled in that office.

(c) *In a primary:*

1. A voter should not write the name of any person on the official ballot;
2. In primary elections for county offices in the counties of

Bertie	Granville	Onslow
Bladen	Greene	Pender
Catawba	Halifax	Perquimans
Chowan	Hoke	Robeson
Columbus	Jones	Sampson
Cumberland	Lenoir	Scotland
Duplin	Northampton	Surry, and
Franklin		Wayne,

in primary elections for municipal offices in the municipalities in those counties, and in primary elections for municipal offices in the towns of Elm City in Wilson County, and Robersonville and Williamston in Martin County, if there are multiple positions to be filled in a single office, the voter shall cast his vote for as many candidates as there are positions to be filled in that office.

§163-152. Assistance to voters in primaries and elections.—(a) *In primaries:*

(1) *Who is entitled to assistance:* In a primary election, a registered voter qualified to vote in the primary shall be entitled to assistance in getting to and from the voting booth and in preparing his ballots in accordance with the following rules:

a. Any voter shall be entitled to assistance from a near relative of his choice.

b. If no near relative of the voter's choice is present at the voting place, a voter in any of the following three categories shall be entitled to assistance from any voter of the precinct who has not given aid to another voter at the same primary; or, if no such person be present at the voting place, from the registrar or one of the judges of election:

1. One who, on account of physical disability, is unable to enter the voting booth without assistance.

2. One who, on account of physical disability, is unable to mark his ballots without assistance.

3. One who, on account of illiteracy, is unable to mark his ballots without assistance.

(2) *Procedure for obtaining assistance:* A person seeking assistance in a primary shall, upon arriving at the voting place, first request the registrar to permit him to have assistance, stating his reasons. If the registrar determines that the voter is entitled to assistance, he shall ask the voter to point out and identify the near relative or other voter of the precinct he desires to help him and to whose assistance he is entitled under this section. The registrar shall thereupon direct the near relative or other voter indicated to render the requested aid. If no near relative or other voter of the voter's choice is present, the voter entitled to assistance may request and obtain aid from the registrar or one of the judges.

(b) *In elections*

(1) *In a county which has not adopted full-time and permanent registration*

a. Who is entitled to assistance: In any election other than a primary, a registered voter shall be entitled to assistance in getting to and from the voting booth and in preparing his ballots in accordance with the following rules:

1. Any voter shall be entitled to assistance from a near relative of his choice.

2. A voter in any of the following four categories shall be entitled to assistance from a marker:

I. One who, on account of physical disability, is unable to enter the voting booth without assistance.

II. One who, on account of physical disability, is unable to mark his ballots without assistance.

III. One who, on account of illiteracy is unable to mark his ballots without assistance.

IV. One who, for any good reason stated to the registrar, desires help in marking his ballots.

b. *Procedures for obtaining assistance:* A person seeking assistance in an election other than a primary shall, upon arriving at the voting place, first request the registrar to permit him to have assistance, stating his reasons. If the registrar determines that the voter is entitled to assistance, he shall ask the voter to point out and identify the near relative or marker he desires to help him and to whose assistance he is entitled under this section. The registrar shall thereupon direct the near relative or marker indicated to render the requested aid. Should a voter seeking assistance from a marker fail to indicate the marker he desires to help him, the registrar shall appoint one from the markers present at the voting place to render the requested aid.

(2) *In a county which has adopted full-time and permanent registration*

a. Who is entitled to assistance: In any election other than a primary, a registered voter shall be entitled to assistance in getting to and from the voting booth and in preparing his ballots in accordance with the following rules:

1. Any voter shall be entitled to assistance from a near relative of his choice.

2. If no near relative of the voter's choice is present at the voting place, a voter in any of the following three categories shall be entitled to assistance from any voter of the precinct who has not given aid to another voter at the same election; or, if no such person be present at the voting place, from the registrar or one of the judges of election:

I. One who, on account of physical disability, is unable to enter the voting booth without assistance.

II. One who, on account of physical disability, is unable to mark his ballots without assistance.

III. One who, on account of illiteracy, is unable to mark his ballots without assistance.

b. *Procedure for obtaining assistance:* A person seeking assistance in an election other than a primary shall, upon arriving at the voting place, first request the registrar to permit him to have assistance, stating his reasons. If the registrar determines that the voter is entitled to assistance, he shall ask the voter to point out and identify the near relative or other voter of the precinct he desires to help him and to whose assistance he is entitled under

this section. The registrar shall thereupon direct the near relative or other voter indicated to render the requested aid. If no near relative or other voter of the voter's choice is present, the voter entitled to assistance may request and obtain aid from the registrar or one of the judges.

(c) Conduct of persons rendering assistance

Anyone rendering assistance to a voter in a primary or election under the provisions of this section shall be admitted to the voting booth with the person being assisted and shall be governed by the following rules:

(1) He shall not in any manner seek to persuade or induce any voter to cast his vote in any particular way.

(2) Except when going to or returning from a voting booth with a voter as authorized by this section, he shall remain within the voting place but shall not come within ten feet of the voting enclosure.

(3) Immediately after rendering assistance, he shall vacate the voting booth and withdraw to his place in the voting place outside the voting enclosure.

(4) He shall not accompany the voter from the voting booth to the ballot box unless the voter requires and requests assistance on account of physical disability; if assistance is rendered in this way, he shall not converse with the voter prior to the time he deposits his ballots in the ballot boxes.

(5) He shall not make or keep any memorandum of anything which occurs within the voting booth.

(6) He shall not, directly or indirectly, reveal to any person how, in any particular, the assisted voter marked his ballots, unless he or they are called upon to testify in a judicial proceeding for a violation of the election laws.

(d) Meaning of "near relative"

As used in this section, the words "near relative" shall include the voter's husband, wife, brother, sister, parent, child, grandparent, and grandchild but no other relative.

(e) Violation of section

It shall be unlawful for any person to give, receive, or permit assistance in the voting booth during any primary or election to any voter otherwise than as is allowed by this section.

§163-153. Access to voting enclosure.—Admission to the voting enclosure while the polls are open shall be governed by the following rules:

1. In counties which have not adopted full-time and permanent registration, only the following persons shall be allowed within the voting enclosure while the polls are open for voting:

a. Officers of election, that is, members of the State Board of Elections, members of the county board of elections, and the precinct registrar, precinct judges of election, and assistants appointed for the precinct under the provisions of §163-42.

b. Voters in the act of voting.

c. A near relative of a voter, but only while assisting the voter as authorized in §163-152.

d. Watchers appointed under the provisions of §163-45.

e. Municipal policemen assigned by the municipal authorities to keep the peace at a voting place located within the municipality, but only when requested to come within the voting enclosure by the registrar and judges for the purpose of preventing disorder; at the request of the registrar and judges, they shall withdraw from the voting enclosure and remain at least ten feet from its entrance.

f. In elections other than primaries, markers appointed under the provisions of §163-44, but only while assisting a voter as authorized in §163-152.

g. In a primary election, any voter of the precinct called upon to assist another voter, but only while rendering the assistance authorized in §163-152.

h. Any voter of the precinct while entering and explaining a challenge.

2. In counties which adopt full-time and permanent registration, only the following persons shall be allowed within the voting enclosure while the polls are open for voting:

a. Officers of election, that is, members of the State Board of Elections, members of the county board of elections, and the precinct registrar, precinct judges of election, and assistants appointed for the precinct under the provision of §163-42.

b. Voters in the act of voting.

c. A near relative of a voter, but only while assisting the voter as authorized in §163-152.

d. Any voter of the precinct called upon to assist another voter, but only while assisting him as authorized in §163-152.

e. Municipal policemen assigned by the municipal authorities to keep the peace at a voting place located within the municipality, but only when requested to come within the voting enclosure by the registrar and judges for the purpose of preventing disorder; at the request of the registrar and judges, they shall withdraw from the voting enclosure and remain at least ten feet from its entrance.

f. Any voter of the precinct while entering and explaining a challenge.

§163-154. Posting lists of civilian and military absentee voters and new resident presidential election voters.—(a) *In general elections:* When delivered to the registrar at the voting place on the day of a general election as required by §163-233, §163-251, or §163-73, the registrar shall immediately post in a conspicuous location at the voting place:

1. The list (and any supplemental lists) of absentee ballots to be voted in the precinct which have been received by the chairman of the county board of elections.

2. The list (and any supplemental lists) entitled "List of Applicants for Military Absentee Ballots to Whom Ballots Have Been Issued" prepared in compliance with the provisions of §163-251.

3. The list of new resident voters of the precinct entitled to cast ballots for presidential electors but for no other offices prepared by the chairman of the county board of elections in compliance with the provisions of §163-73.

(b) *In primary elections:* When delivered to the registrar at the voting place on the day of a primary election, the registrar shall immediately post in a conspicuous place at the voting place the list (and any supplemental lists) entitled "List of Applicants for Military Absentee Ballots to Whom Ballots Have Been Issued" prepared by the chairman of the county board of elections in compliance with the provisions of §163-251.

§163-155 through §163-159 reserved for future use.

ARTICLE 14.

Voting Machines.

§163-160. Voting machines; approval; rules and regulations.—The State Board of Elections shall have authority to approve types and kinds of voting machines for use in primaries and elections held in this State. The use of voting machines which have been approved by the State Board of Elec-

tions in any primary or election held in any county or municipality shall be as valid as the use of paper ballots by the voters.

The State Board of Elections shall prescribe rules and regulations for the adoption, handling, operation, and honest use of voting machines, including, but not limited to, rules and regulations governing:

1. Types of voting machines approved for use in this State;
2. Form of ballot labels to be used on voting machines;
3. Operation of and manner of voting on voting machines;
4. Instruction of precinct election officials in the use of voting machines;
5. Instruction of voters in the use of voting machines;
6. Assistance to voters using voting machines;
7. Duties of custodians of voting machines; and
8. Examination of voting machines before use in a primary or election.

§163-161. Adoption of voting machines by county or municipality.—

(a) *Discretionary authority:* In whatever manner and upon whatever terms the board of county commissioners deems to be in the best interest of the county, it may adopt and purchase or lease voting machines of a type approved by the State Board of Elections for use in some or all voting places in the county at some or all primaries and elections. Specifically, the board may purchase voting machines upon an installment basis or otherwise, or it may lease voting machines with or without an option to purchase.

The governing body of any municipality shall have the same authority with respect to the acquisition and use of voting machines for municipal primaries and elections.

In addition, the governing body of any municipality and the board of commissioners of the county in which the municipality is situated shall have authority jointly, upon such terms as they may agree to, to adopt and purchase or lease voting machines for use in some or all voting places of the county and municipality at some or all primaries and elections held in the two units of government.

Before adopting or acquiring voting machines under the authority of this subsection, the commissioners of the county, or the governing body of the municipality, or both jointly, may, at their discretion, submit to the voters of the county, or the municipality, or of both units, the question of whether voting machines should be adopted for use in primaries and elections in the unit or units. The question may be submitted at any general election or special election ordered to be held for some purpose other than the submission of this issue. The results of the referendum authorized under this subsection shall be advisory only and shall not bind the governing body submitting the question.

(b) *Referendum discretionary upon petition:* Upon receipt of a written petition signed by at least five hundred (500) registered voters of the county or municipality, the board of county commissioners or municipal governing body may submit to the voters of the county or municipality the question of adopting voting machines for use in all voting places of the county or municipality at all primaries and elections held in the unit. In such a case, each person signing the petition shall write the name or number of his precinct after his name.

The question may be submitted at any general election or special election ordered or held for some purpose other than the submission of this issue. If a majority of the voters casting ballots in the referendum approve the adoption of voting machines, the board of county commissioners or the governing body of the municipality, may adopt for use in primaries and elections in the

unit voting machines of a type or kind approved by the State Board of Elections.

(c) *Care and custody of voting machines:* When the unit governing body has decided to adopt and purchase voting machines under the provisions of subsection (a) of this section, or when the adoption of voting machines has been approved in a referendum conducted under the provisions of subsection (b) of this section, the board of county commissioners or municipal governing body shall, as soon as practical, provide for each voting place in the unit one or more approved voting machines in complete working order. If it is impractical to furnish each voting place with voting machines, those obtained may be placed in voting places chosen, in the case of a county, by the county board of elections, and in the case of a municipality, by the governing body.

The county board of elections or the municipal governing body shall appoint as many voting machine custodians as may be necessary for the proper preparation of the machines for each primary and election and for their maintenance, storage, and care.

§163-162. Use of paper ballots where voting machines used.—In counties in which voting machines are used in some or all precincts the county board of elections shall have authority to determine how many, if any, paper ballots of each kind shall be distributed to precincts using voting machines.

§163-163 through §163-167 reserved for future use.

ARTICLE 15.

Counting Ballots, Canvassing Votes, and Certifying Results in Precinct and County.

§163-168. Proceedings when polls are closed.—At 6:30 p.m. on the day of an election or primary, the precinct registrar shall announce that the polls are closed, but any qualified voters who are then in the process of voting or who are in line within the voting enclosure waiting to vote, shall be allowed to mark and cast their ballots.

§163-169. Counting ballots at precinct; unofficial report of precinct vote to county board of elections.—(a) *Instructions:* Before each primary and election, the chairman of the county board of elections shall furnish each registrar written instructions on how ballots shall be marked and counted. Before starting the counting of ballots in his precinct, the registrar shall instruct all of the judges, assistants, and ballot counters in how differently marked ballots shall be counted and tallied.

(b) *General rule:* Only official ballots shall be counted. No ballot shall be counted which is marked contrary to law, but no ballot shall be rejected for a technical error unless it is impossible to determine the voter's choice.

(c) *Right to witness precinct count:* The counting of the ballots in each box shall be made in the presence of the precinct election officials and witnesses and watchers who are present and desire to observe the count. Observers shall not interfere with the orderly counting of the ballots.

(d) *Counting to be continuous; precinct officials not to separate:* As soon as the polls are closed the registrar and judges shall, without adjournment or postponement, open the ballot boxes and count the ballots. The counting of ballots at the precinct shall be continuous until completed. More than one box may be counted at the same time by the precinct officials, assistants, and ballot counters, but the registrar and judges shall supervise the counting of all boxes and shall be responsible for them. From the time the first ballot box is opened and the count of votes begun until the votes are counted and

the statement of returns made out, signed, certified as required by §163-173, and delivered to the registrar or judge chosen to deliver them to the county board of elections, the precinct registrar and judges shall not separate, nor shall any one of them leave the voting place except for unavoidable necessity.

(e) *Counting primary ballots:* In a primary election only one ballot shall be removed from the ballot box at the time, and it shall be opened in full view of the precinct election officials and witnesses present. The name of each candidate voted for shall be read aloud distinctly, and the vote received by each candidate shall be tallied on the tally sheet. This procedure shall be followed for all ballot boxes being counted at the same time.

(f) *Counting general election ballots:* In a general election the contents of a ballot box may be emptied upon a table and the ballots divided into two piles: (1) All those ballots marked in the circle of one political party to indicate a vote for all of the candidates of that party, that is, "straight tickets," which shall be so counted and tallied. (2) All those ballots marked for candidates of more than one political party, that is, "split tickets," which shall be called and tallied in the manner prescribed for counting primary ballots in subsection (e) of this section.

(g) *Questioned ballots:* All questions arising with respect to how a ballot shall be counted or tallied shall be referred to the registrar and judges of election for determination before the completion of the counting of the ballots in the box from which the questioned ballot was taken.

(h) *Unofficial report of precinct returns:* On the night of the primary or election, as soon as the votes have been counted and the precinct returns certified, the registrar, or one of the judges selected by the registrar, shall report the total precinct vote for each candidate, constitutional amendment, and proposition by telephone or otherwise to the county board of elections. This report shall be unofficial and shall have no binding effect upon the official county canvass to follow. As soon as the precinct reports are received, the chairman, secretary, or clerk to the county board of elections shall publish the reports to the press, radio, and television. The costs incurred in executing the provisions of this subsection shall be charged to the operating expense of the county board of elections.

(i) *Absentee ballots:* Absentee ballots shall be deposited and voted in accordance with the provisions of §163-234; they shall be counted and tabulated as provided in this section and §163-170.

(j) *Presidential ballots of new resident voters:* The ballots of all new resident voters cast for presidential electors under the provisions of §163-56 and §163-73 which are not challenged or, if the challenge is not sustained, shall be counted and tallied in the manner provided in subsection (i) of this section for counting and tallying absentee ballots, and shall be made a part of the official precinct returns for presidential electors.

§163-170. Rules for counting ballots.—No ballot shall be counted which is marked contrary to law, but no ballot shall be rejected for a technical error unless it is impossible to determine the voter's choice. In applying this general principle, all election officials shall be governed by the following rules:

1. Only official ballots shall be counted.
2. If for any reason it is impossible to determine a voter's choice for an office to be filled, the ballot shall not be counted for that office but shall be counted for all other offices.
3. If a ballot is marked for more names than there are persons to be

electd to an office, it shall not be counted for that office but shall be counted for all other offices.

4. If a ballot has been defaced or torn by a voter it shall not be counted.

5. If a voter has affixed a sticker to a ballot, marked a ballot with a rubber stamp, attached anything to a ballot, wrapped or folded anything in a ballot, or done anything to a ballot other than mark it properly with pencil or pen, it shall not be counted.

6. If a name has been written in on an official general election ballot as provided in §163-151(b), it shall be treated like any name printed on the ballot and shall be counted in accordance with the following instructions:

a. If the name was written in by an election official or by any person other than the voter himself or a person assisting him pursuant to the provisions of §163-152, the name written in shall not be counted.

b. If the name has been written in the space immediately beneath the name of a candidate for a particular office, it shall be counted as a vote for the person whose name has been written in for that office whether or not the voter has made any mark to the left of the name inserted. Striking out, marking through, or crossing out the name printed above the write-in shall not affect the validity of the write-in, nor shall it serve to invalidate the ballot or the vote for the particular office.

c. If the voter has marked the party circle above the column in which he has entered the write-in, the following instructions shall apply:

(1) If the voter has made no mark to the left of the name written in, his ballot shall be counted as a vote for the person whose name has been inserted and for all other nominees of the party in whose circle he has marked except the one beneath whose printed name the voter has made the write-in: Provided, however, if the person whose name has been written in appears on the ballot as the nominee of a different political party for any office, the write-in shall be ignored, and the ballot shall be counted as a vote for all the nominees of the party in whose circle the voter has marked.

(2) If the voter has made a mark to the left of a name written in, his write-in shall be ignored, and his ballot shall be counted as a vote for all the nominees of the party in whose circle the voter has marked.

d. If the voter has marked the party circle at the top of one column on the ballot and has made a write-in under a name printed in a different column, the write-in shall be ignored, and his ballot shall be counted as a vote for all the nominees of the party in whose circle he has marked.

7. In an election other than a primary, if a voter in one of the counties or municipalities listed in paragraph 4 of §163-151(b) fails to adhere to the instructions set out in that paragraph, his ballot shall not be counted for any of the candidates for any of the multiple positions to be filled in the single office.

8. In a primary election, if a voter in one of the counties or municipalities listed in paragraph 2 of §163-151(c) fails to adhere to the instructions set out in that paragraph, his ballot shall not be counted for any of the candidates for any of the multiple positions to be filled in the single office.

§163-171. Preservation of ballots; locking and sealing ballot boxes; signing certificates.—When the precinct count is completed after a primary or election, all ballots shall be put back in the ballot boxes from which they were taken, and the registrar and judges shall promptly lock and place a seal around the top of each ballot box, so that no ballot may be taken from

or put in it. The registrar and judges shall then sign the seal on each ballot box.

Ballot boxes in which ballots have been placed and which have been locked and sealed as required by the preceding paragraph shall remain in the safe custody of the registrar, subject to the orders of the chairman of the county board of elections as to their disposition. No ballot box shall be opened except upon the written order of the county board of elections or upon a proper order of court.

Ballots cast in a primary or general election shall be preserved for at least two months after the primary or general election in which voted.

On each precinct return form there shall be printed a statement to be signed by the registrar and judges certifying that, after the precinct count was completed, each ballot box was properly locked, sealed, and the seals signed, as prescribed in this section, before the precinct officials left the voting place on the night of the primary or election.

Willful failure to securely lock, seal, and sign the seal on each ballot box on the night of any primary or election, and willful failure to sign the certificate on the duplicate return forms certifying that this was done, shall constitute a misdemeanor.

§163-172. State Board of Elections to prepare and distribute abstract forms.—The State Board of Elections shall prepare and print appropriate abstract of returns forms and, at least thirty days before the time for holding any primary or election, send copies of them to the chairman of the county board of elections and clerk of superior court of each county. At the same time, the State Board of Elections shall furnish directions for completing, certifying, signing, and transmitting abstracts of returns to the State Board of Elections and Secretary of State as required by this chapter after each primary and election.

§163-173. How precinct returns are to be made.—In each precinct, when the results of the counting of the ballots have been ascertained they shall be recorded in original and duplicate statements to be prepared, signed, and certified to by the registrar and judges on forms provided by the county board of elections.

One of the statements of the voting in the precinct shall be placed in a sealed envelope and delivered to the registrar or a judge selected by the precinct officials for the purpose of delivery to the county board of elections at its meeting on the second day after the primary or election. The other copy of the statement shall be mailed immediately to the chairman of the county board of elections by one of the other two precinct election officials.

Any registrar or judge appointed to deliver the certified precinct returns who shall fail to deliver them to the county board of elections by twelve o'clock, noon, on the day the board meets to canvass the returns shall be guilty of a misdemeanor, unless the failure resulted from illness or other good cause.

§163-174. Registration and poll books to be returned to chairman of county board of elections.—On the day of the county canvass following each primary and election, the registrar (or judge appointed to bring in the precinct returns) shall deliver the precinct registration book or records and the poll book to the chairman of the county board of elections.

§163-175. County board of elections to canvass returns and declare results.—On the second day (Sunday excepted) next after every primary and election, the county board of elections shall meet at eleven o'clock,

a.m., at the county courthouse, for the purpose of canvassing the votes cast in the county and preparing the county abstracts. If the returns from any precinct have not been received by the county board by twelve o'clock, noon, on that day, or if the returns of any precinct are incomplete or defective, the board shall have authority to dispatch a peace officer to the residences of the election officials of the delinquent precinct for the purpose of securing proper returns for that precinct.

In the presence of such persons as choose to attend, the members of the county board of elections shall open the precinct returns, canvass and judicially determine the results of the voting in the county, and prepare and sign duplicate abstracts showing:

1. In a primary, the total number of votes cast in each precinct and in the county for each candidate of each political party for each office.

2. In an election, the number of legal votes cast in each precinct for each candidate, the name of each person voted for, the political party with which he is affiliated, and the total number of votes cast in the county for each person for each different office.

In complying with the provisions of this section, the county board of elections shall have power and authority to judicially pass upon all facts relative to the primary or election, to make or order such recounts as it deems necessary, and to judicially determine the result of the primary or election. The board shall also have power to send for papers and persons and to examine them, and to pass upon the legality of any disputed ballots transmitted to it by any precinct election official.

When, on account of errors in tabulating returns and filling out abstracts, the result of a primary or election in any one or more precincts cannot be accurately known, the county board of elections shall be allowed access to the ballot boxes in such precincts to make or order a recount and to declare the result.

When the county board of elections has judicially determined the result of the primary or election, the chairman of the board shall proclaim the result at the courthouse door, stating the number of votes cast in the county for each candidate for each office.

§163-176. Preparation of original abstracts; where filed.—When the county canvass has been completed, the county board of elections shall record the results determined in accordance with §163-175 on duplicate abstract forms furnished by the State Board of Elections.

Each abstract shall be prepared to show the total number of votes cast for each constitutional amendment and proposition and for each candidate of each political party for each office in each precinct and in the entire county.

When the original and duplicate abstracts have been prepared, the members of the county board of elections shall sign an affidavit on each, stating that it is true and correct.

Each of the original abstracts, together with the original precinct returns, shall be filed by the county board of elections with the clerk of superior court to be recorded in the permanent file in his office.

§163-177. Disposition of duplicate abstracts.—Within five days after a primary or election is held, the chairman of the county board of elections shall mail to the chairman of the State Board of Elections the duplicate abstracts prepared in accordance with §163-176 for all offices and referenda for which the State Board of Elections is required to canvass the votes and declare the results, including:

President and Vice-President of the United States
Governor, Lieutenant Governor, and all other State executive officers
United States Senators
Members of the House of Representatives of the United States Congress
Justices of the Supreme Court
Judges of the superior courts
Judges of the district courts
Solicitors
State senators in multi-county senatorial districts
Members of the State House of Representatives in multi-county representative districts
Constitutional amendments and other propositions submitted to the voters of the State

The duplicate abstracts prepared in accordance with §163-176 for all offices and referenda for which the county board of elections is required to canvass the votes and declare the results (and which are listed below) shall be retained by the county board, which shall forthwith publish and declare the results:

All county offices
All township offices
State senators in single-county senatorial districts
Members of the State House of Representatives in single-county representative districts
Propositions submitted to the voters of one county

If the chairman of the county board of elections fails or neglects to transmit duplicate abstracts to the chairman of the State Board of Elections within the time prescribed in this section, he shall be guilty of a misdemeanor and subject to a fine of one thousand dollars (\$1,000.00): Provided, that the penalty shall not apply if the chairman was prevented from performing the prescribed duty because of sickness or other unavoidable delay, but the burden of proof shall be on the chairman to show that his failure to perform was due to sickness or unavoidable delay.

§163-178. Clerk of superior court to send statement of votes to Secretary of State.—In a general election, the clerk of the superior court shall, within two days after the original abstracts are filed in his office by the county board of elections, certify under his official seal to the Secretary of State, upon forms furnished him by the State Board of Elections for that purpose, a statement of the votes cast in his county for all national, State, and district offices, and for and against constitutional amendments and propositions submitted to the people. At the same time, the clerk of superior court shall also certify under his official seal to the Secretary of State a list of all the persons voted for in his county as members of the State Senate and House of Representatives and all county offices, together with the votes cast for each and their post office addresses.

If the clerk of superior court fails or neglects to transmit these returns to the Secretary of State within the time specified in this section, he shall be guilty of a misdemeanor and subject to a fine of five hundred dollars (\$500.00): Provided, that the penalty shall not apply when the clerk was prevented from performing his duties because of sickness or other unavoidable delay, but the burden of proof shall be on the clerk to show that his failure to perform his duties was due to sickness or unavoidable delay.

The provisions of this section, unless changed by general rules pro-

mulgated by the State Board of Elections, shall also apply to primary elections.

§163-179. Who declared elected by county board.—In a general election, the person having the greatest number of legal votes for a county or township office, or for membership in one of the houses of the General Assembly in a representative or senatorial district composed of only one county, shall be declared elected by the county board of elections: Provided, however, that as a prerequisite to election, a write-in candidate for any office must receive as many as 5% of the votes cast for candidates for the United States House of Representatives in the township or county or other jurisdiction in which he is running.

If two or more candidates in the categories listed in this section, having the greatest number of votes, shall have an equal number, the county board of elections shall determine by lot which shall be elected.

§163-180. Chairman of county board of elections to furnish certificate of election.—Not earlier than five days nor later than ten days after the results of an election have been officially determined and published in accordance with §163-175 and §163-179, the chairman of the county board of elections shall furnish to each of the following persons appropriate certificates of election under his hand and seal: county officers, township officers, and persons elected to membership in the General Assembly in representative and senatorial districts composed of only one county. He shall also immediately notify all persons elected to county offices to meet at the courthouse on the first Monday in the ensuing December to be qualified.

In issuing certificates of election under this section, the chairman of the county board of elections shall be restricted by the provisions of §163-181.

§163-181. Election contest stays certification of nomination or election.—If an election contest is properly pending before a county board of elections or on appeal from a county board to the State Board of Elections, after either a primary or election, the chairman of the county board of elections shall not, in the case of an election, issue a certificate of election, or in the case of a primary, certify the nominee, for the office in controversy until the contest has been finally decided by the county or State Board of Elections.

§163-182 through §163-186 reserved for future use.

ARTICLE 16.

Canvass of Returns for Higher Offices and Preparation of State Abstracts.

§163-187. State Board of Elections to canvass returns for higher offices.—In addition to the other powers and duties assigned it by this chapter, the State Board of Elections shall constitute the State's legal canvassing board in both primaries and elections for all national, State, and district offices (including the offices of State Senator and members of the State House of Representatives in those senatorial and representative districts consisting of more than one county).

No member of the State Board of Elections shall take part in canvassing the votes for any office for which he himself is a candidate.

§163-188. Meeting of State Board of Elections to canvass returns of primary and election.—Following each primary and election held in this State under the provisions of this chapter, the State Board of Elections shall meet in the Hall of the House of Representatives in the City of Raleigh

to canvass the votes cast in all the counties of the State for all national, State, and district offices, to determine by the count who is nominated or elected to the respective offices, and to declare the results and prepare abstracts as required by §163-192. The time and date of the general election canvass shall be eleven o'clock, a.m., on the Tuesday following the third Monday after the general election. The time and date of the primary canvass shall be fixed by the State Board of Elections.

At the meeting required by the preceding paragraph, if the abstracts of returns have not been received from all of the counties, the Board may adjourn for not more than ten days for the purpose of securing the missing abstracts. In obtaining them, the Board is authorized to secure the originals or copies from the appropriate clerks of superior court or county boards of elections, at the expense of the counties. The State Board of Elections is authorized to enforce the penalties provided in §163-177 and §163-178 for failure of a county elections board chairman or clerk of superior court to comply with the provisions of this chapter in making returns of a primary or election.

At the meeting required by the first paragraph of this section (or at any adjourned session thereof), the State Board of Elections shall examine the county abstracts when they have all been received and shall proceed with the canvass publicly.

§163-189. Meeting of State Board of Elections to canvass returns of a special election for United States Senator or Representative.—If a special election is ordered by the Governor to fill a vacancy in the State's representation in the United States Senate or House of Representatives as provided for in §163-12 or §163-13, the State Board of Elections may meet for the purposes prescribed in §163-188 as soon as its chairman shall have received abstracts of returns from all of the counties entitled to vote in the special election. The chairman of the State Board shall fix the day of the meeting not later than ten days after the special election, and county boards of elections shall transmit their abstracts of returns to the State Board in sufficient time to be available for the State canvass.

§163-190. State Board of Elections may refer to ballot boxes to resolve doubts.—When, on account of errors in tabulating returns and filling out abstracts, the result of a primary or election in any precinct, county, district, or the State cannot be accurately known, the State Board of Elections shall be allowed access to the ballot boxes to make or order a recount and to declare the results.

§163-191. Contested primaries and elections; how tie broken.—In a primary for party nomination for one or more of the offices to be canvassed by the State Board of Elections under the provisions of §163-187, the results shall be determined in accordance with the provisions of §163-111.

In a general election for one or more of the offices to be canvassed by the State Board of Elections under the provisions of §163-187, the person having the highest number of votes for each office, respectively, shall be declared duly elected to that office by the State Board of Elections. But if two or more be equal and highest in votes for the office, then one of them shall be chosen by joint ballot of both houses of the General Assembly.

In a contested election for one of the offices referred to in the preceding paragraph, the State Board of Elections shall certify to the Speaker of the House of Representatives a statement of whatever facts the Board has

relative thereto, and the contest shall be determined by joint vote of both houses of the General Assembly in the manner and under the rules applicable in cases of contested elections for members of the General Assembly.

§163-192. State Board of Elections to prepare abstracts and declare results of primaries and elections.

(a) *After primary:* At the conclusion of its canvass of the primary election, the State Board of Elections shall prepare separate abstracts of the votes cast:

(1) For Governor and all State officers, justices of the Supreme Court, judges of the superior court, and United States Senators.

(2) For members of the United States House of Representatives for the several congressional districts in the State.

(3) For district court judges for the several judicial districts in the State.

(4) For solicitor in the several solicitorial districts in the State.

(5) For State Senators in the several senatorial districts in the State composed of more than one county.

(6) For members of the State House of Representatives in the several representatives districts in the State composed of more than one county.

Abstracts prepared by the State Board of Elections under this subsection shall state the total number of votes cast for each candidate of each political party for each of the various offices canvassed by the State Board of Elections. They shall also state the name or names of the person or persons whom the State Board of Elections shall ascertain and judicially determine by the count to be nominated for each office.

Abstracts prepared under this subsection shall be signed by the members of the State Board of Elections in their official capacity and shall have the Great Seal of the State affixed thereto.

(b) *After general election:* At the conclusion of its canvass of the general election, the State Board of Elections shall prepare abstracts of the votes cast:

(1) For President and Vice-President of the United States, when an election is held for those offices.

(2) For Governor and all State officers, justices of the Supreme Court, judges of the superior court, and United States Senators.

(3) For members of the United States House of Representatives for the several congressional districts in the State.

(4) For district court judges for the several judicial districts in the State.

(5) For solicitor in the several solicitorial districts in the State.

(6) For State Senators in the several senatorial districts in the State composed of more than one county.

(7) For members of the State House of Representatives in the several representative districts in the State composed of more than one county.

(8) For and against any constitutional amendments or propositions submitted to the people.

Abstracts prepared by the State Board of Elections under this subsection shall state the names of all persons voted for, the office for which each received votes, and the number of legal ballots cast for each candidate for each office canvassed by the State Board of Elections. They shall also state the name or names of the person or persons whom the State Board of

Elections shall ascertain and judicially determine by the count to be elected to each office.

Abstracts prepared under this subsection shall be signed by the members of the State Board of Elections in their official capacity and shall have the Great Seal of the State affixed thereto.

(c) *Disposition of abstracts of returns:* The State Board of Elections shall file with the Secretary of State the original abstracts of returns prepared by it under the provisions of subsections (a) and (b) of this section, and also the duplicate county abstracts transmitted to the State Board of Elections under the provisions of §163-177.

§163-193. Results of election certified to Secretary of State; certificates of election.—After ascertaining and declaring the result of an election as provided in §163-192(b), the State Board of Elections shall certify the result to the Secretary of State. The Secretary of State shall then prepare and sign a certificate of election for each person elected and deliver it to him upon demand.

§163-194. Governor to issue commissions to certain elected officials.—Every person duly elected to one of the offices listed below, upon obtaining a certificate of his election from the Secretary of State under the provisions of §163-193, shall procure from the Governor a commission attesting his election to the specified office, which the Governor shall issue upon production of the Secretary of State's certificate:

Member of the United States House of Representatives,
Justice of the Supreme Court,
Judge of the superior court,
Judge of the district court,
Solicitor.

§163-195. Secretary of State to record abstracts.—The Secretary of State shall record the State, district, and county abstracts filed with him by the State Board of Elections in a book to be kept by him for that purpose.

§163-196 through §163-200 reserved for future use.

ARTICLE 17.

Members of United States House of Representatives.

§163-201. Congressional districts specified.—For the purpose of nominating and electing members of the House of Representatives of the United States Congress in 1966 and every two years thereafter, there are established the following congressional districts, from each of which one representative shall be elected:

District 1 shall consist of Beaufort, Bertie, Camden, Chowan, Craven, Currituck, Dare, Gates, Hertford, Hyde, Jones, Martin, Northampton, Pamlico, Pasquotank, Perquimans, Pitt, Tyrrell, and Washington counties.

District 2 shall consist of Edgecombe, Franklin, Granville, Greene, Halifax, Johnston, Lenoir, Vance, Warren, and Wilson counties.

District 3 shall consist of Carteret, Duplin, Harnett, Lee, Onslow, Pender, Sampson, and Wayne counties.

District 4 shall consist of Chatham, Montgomery, Moore, Nash, Orange, Randolph, and Wake counties.

District 5 shall consist of Caswell, Durham, Forsyth, Person, Rockingham, and Stokes counties.

District 6 shall consist of Alamance, Davidson, and Guilford counties.

District 7 shall consist of Bladen, Brunswick, Columbus, Cumberland,

Hoke, New Hanover, Robeson and Scotland counties.

District 8 shall consist of Anson, Lincoln, Mecklenburg, Richmond, and Union counties.

District 9 shall consist of Alleghany, Ashe, Cabarrus, Caldwell, Davie, Rowan, Stanly, Surry, Watauga, Wilkes, and Yadkin counties.

District 10 shall consist of Alexander, Avery, Burke, Catawba, Cleveland, Gaston, and Iredell counties.

District 11 shall consist of Buncombe, Cherokee, Clay, Graham, Haywood, Henderson, Jackson, McDowell, Macon, Madison, Mitchell, Polk, Rutherford, Swain, Transylvania and Yancey counties.

§163-202. Election after reapportionment of members of House of Representatives.—Whenever, by a new apportionment of members of the United House of Representatives, the number of Representatives from North Carolina shall be changed, and neither the Congress nor the General Assembly shall provide for electing them, the following procedures shall apply:

(1) If the number of Representatives is increased, the Representative from each of the existing congressional districts shall be elected by the qualified voters of his district, and the additional Representatives apportioned to North Carolina shall be elected on a single ballot by the qualified voters of the whole State.

(2) If the number of Representatives is decreased, existing congressional district lines shall be ignored, and all Representatives apportioned to North Carolina shall be elected on a single ballot by the qualified voters of the whole State.

§163-203 through §163-207 reserved for future use.

ARTICLE 18.

Presidential Electors.

§163-208. Conduct of presidential election.—Unless otherwise provided, the election of presidential electors shall be conducted and the returns made in the manner prescribed by this chapter for the election of State officers.

§163-209. Names of presidential electors not printed on ballots.—The names of candidates for electors of President and Vice-President nominated by any political party recognized in this State under §163-96 shall be filed with the Secretary of State but shall not be printed on the ballot. In place of their names, in accordance with the provisions of §163-140 there shall be printed on the ballot the names of the candidates for President and Vice-President of each political party recognized in this State. A vote for the candidates named on the ballot shall be a vote for the electors of the party by which those candidates were nominated and whose names have been filed with the Secretary of State.

§163-210. Governor to proclaim results; casting State's vote for President and Vice-President.—Upon receipt of the abstracts prepared by the State Board of Elections and delivered to him in accordance with §163-192, the Secretary of State, under his hand and the seal of his office, shall certify to the Governor the names of the persons elected to the office of elector for President and Vice-President of the United States as stated in the abstracts of the State Board of Elections. Thereupon, the Governor shall immediately issue a proclamation setting forth the names of the electors and instructing them to be present in the Hall of the House of Representatives in the City of Raleigh at noon on the first Monday after the second Wednesday in

December next after their election, at which time the electors shall meet and vote on behalf of the State for President and Vice-President of the United States. The Governor shall cause this proclamation to be published in the daily newspapers published in the City of Raleigh.

On or before the date fixed for the meeting of the electors, the Governor shall send by registered mail to the Administrator of General Service, a certificate under the Great Seal of the State setting forth the names of the persons chosen as presidential electors for this State and the number of votes cast for each. At the same time he shall deliver to the electors six duplicate-originals of the same certificate, each bearing the Great Seal of the State.

In case of the absence or ineligibility of any elector chosen, or if the proper number of electors shall for any cause be deficient, those present at the required meeting shall forthwith elect from the citizens of the State a sufficient number of persons to fill the deficiency, and the persons chosen shall be deemed qualified electors to vote for President and Vice-President of the United States.

§163-211. Compensation of presidential electors.—Presidential electors shall be paid, for attending the meeting held in the City of Raleigh on the first Monday after the second Wednesday in December next after their election, the sum of ten dollars (\$10.00) per day and traveling expenses at the rate of five cents (5¢) per mile in going to and returning home from the required meeting.

§163-212. Penalty for failure of presidential elector to attend and vote.—Any presidential elector having previously signified his consent to serve as such, who fails to attend and vote for President and Vice-President of the United States at the time and place directed in §163-210 (except in case of sickness or other unavoidable accident) shall forfeit and pay to the State five hundred dollars (\$500.00), to be recovered by the Attorney General in the Superior Court of Wake County.

§163-213 through §163-217 reserved for future use.

ARTICLE 19.

Petitions for Elections and Referenda.

§163-218. Registration of notice of circulation of petition.—From and after July 1, 1957, notice of circulation of a petition calling for any election or referendum shall be registered with the county board of elections with which the petition is to be filed, and the date of registration of the notice shall be the date of issuance and commencement of circulation of the petition.

§163-219. Petition void after one year from registration.—Petitions calling for elections and referenda shall be and become void and of no further effect one year after the date the notice of circulation is registered with the county board of elections with which it is required to be filed; and notwithstanding any public, special, local, or private act to the contrary, no election or referendum shall thereafter be called or held pursuant to or based upon any such void petition.

§163-220. Limitation on petitions circulated prior to July 1, 1957.—Petitions calling for elections or referenda which were circulated prior to July 1, 1957, shall be and become void and of no further force and effect one year after the date of issuance of such petitions for circulation; and notwith-

standing any public, special, local, or private act to the contrary, no election or referendum shall be called or held pursuant to or based upon any such void petition from and after July 1, 1957.

§163-221 through §163-225 reserved for future use.

SUBCHAPTER VII. ABSENTEE VOTING

ARTICLE 20.

Absentee Ballot.

§163-226. **Who may vote an absentee ballot.**—Any qualified voter of the State, whether or not in the armed forces of the United States, may vote by absentee ballot in a State-wide general election in the manner provided in this article if:

1. He expects to be absent from the county in which he is registered during the entire period that the polls are open on the day of the State-wide general election in which he desires to vote; or

2. He is unable to be present at the voting place to vote in person on the day of the State-wide general election in which he desires to vote because of his sickness or other physical disability.

§163-227. **Application for absentee ballots; forms of application.**—A voter falling in either of the categories defined in §163-226 may apply for absentee ballots not earlier than forty-five days prior to the State-wide general election in which he seeks to vote and not later than 6:00 o'clock, p.m. on Wednesday before that election. Except as provided in the following paragraph, the voter shall apply for absentee ballots under the provisions of subsection (a) or subsection (b) of this section.

If a voter unexpectedly becomes ill or physically disabled to the extent defined in §163-226 after 6:00 o'clock, p.m., on Wednesday and before 10:00 o'clock, a.m., on Monday before the election, he may apply for absentee ballots under the provisions of subsection (c) of this section.

(a) *Expected Absence from County on Election Day:* A voter expecting to be absent from the county in which registered during the entire period that the polls will be open on election day, shall make written application for absentee ballots to the chairman of the board of elections of the county in which he is registered not earlier than forty-five days nor later than 6:00 o'clock, p.m., on Wednesday before the election. The application shall be submitted in the form set out at the end of this subsection upon a copy which shall be furnished the voter by the chairman of the county board of elections.

The applicant shall sign his application personally, and he shall swear to it before an officer with a seal who is authorized to administer oaths. The officer administering the oath shall sign the certificate below the applicant's signature and shall affix his official seal in the place indicated on the form.

The application form, when properly filled out, signed, sworn and certified to, shall be transmitted by mail or delivered in person by the applicant to the chairman of the board of elections of the county in which he is registered.

The form for use in applying for absentee ballots under this subsection shall be as follows:

**AFFIDAVIT AND APPLICATION FOR BALLOTS BY VOTER WHO
EXPECTS TO BE ABSENT FROM COUNTY IN WHICH
REGISTERED ON ELECTION DAY**

(Anyone who falsifies this statement is subject to a fine or imprisonment, or both.)

Application No. _____ issued to _____

(This line shall be filled out before application is issued.)

State of _____

County of _____

I, _____, do solemnly swear that I am a registered voter residing in _____ precinct, _____ township, in the County of _____, North Carolina, and that I am lawfully entitled to vote in that precinct at the general election to be held therein on the _____ day of _____, 19____; that I expect to be absent from the county of my residence during the entire period that the polls will be open on the day of the general election, and that I will have no opportunity to vote in person on that day.

I hereby make application for an official ballot or ballots on which I may vote at the general election specified. I will return the ballot or ballots by mail or will deliver them in person to the chairman of the board of elections of the county of my residence prior to 12:00 o'clock, noon, on Saturday preceding the election in which they shall be cast.

(Signature of applicant)

(Post office address to which ballots
are to be mailed)

Subscribed and sworn to by _____ before
me, this _____ day of _____, 19____.

(Signature of officer administering
oath)

(SEAL)

(Post office address of officer)

(b) *Absence for Sickness or Physical Disability Occurring before 6:00 o'clock, p.m., on Wednesday Prior to Election:* A voter expecting to be unable to go to the voting place to vote in person on election day because of his sickness or other physical disability, shall make written application for absentee ballots to the chairman of the board of elections of the county in which he is registered not earlier than forty-five days nor later than 6:00 o'clock, p.m., on Wednesday before the election. The application shall be submitted in one of the forms set out at the end of this subsection upon a copy which shall be furnished the voter by the chairman of the county board of elections.

Ordinarily the application shall be made on Form (1) set out at the end of this subsection and shall be signed by the voter personally, but if his physical disability is of such a nature as to make it impossible for him to sign the application, Form (2) at the end of this subsection shall be used, and it may be signed for the voter by his wife, husband, brother, sister, parent, child, or attending physician. The voter shall swear to his signature before an officer with a seal who is authorized to administer oaths; if the application has

been signed by another for the voter in accordance with the terms of the preceding sentence, the voter shall swear that it was signed for him at his request. The officer administering the oath shall sign the certificate below the applicant's signature on Form (1) or below the signature of the person signing the application on Form (2), and he shall affix his official seal in the place indicated on the appropriate form.

If the application has been made on Form (2) and has been signed for the applicant rather than by the applicant himself, the certificate printed on Form (2) below the certificate of the attesting officer shall be filled in and signed in the presence of a witness by a licensed physician who is attending the applicant. The witness to the physician's certificate shall sign his name in the place provided on the form.

The application form, whether Form (1) or Form (2), when properly filled out, signed, sworn and certified to, shall be transmitted by mail or delivered in person by the applicant to the chairman of the board of elections of the county in which he is registered.

The forms for use in applying for absentee ballots under this subsection shall be as follows:

Form (1)

**AFFIDAVIT AND APPLICATION FOR BALLOTS BY VOTER WHO
EXPECTS TO BE UNABLE TO GO TO VOTING PLACE ON
ELECTION DAY BECAUSE OF SICKNESS OR PHYSICAL
DISABILITY OCCURRING PRIOR TO 6:00 O'CLOCK, P.M.,
ON WEDNESDAY BEFORE THE ELECTION**

(Anyone who falsifies this statement is subject to a fine or imprisonment, or both.)

Application No. _____ issued to _____

(This line shall be filled out before application is issued.)

State of North Carolina

County of _____

I, _____, do solemnly swear that I am a registered voter residing in _____ precinct, _____ township, in the County of _____, North Carolina, and that I am lawfully entitled to vote in that precinct at the general election to be held therein on the _____ day of _____, 19____; that by reason of sickness or physical disability, to wit:

(Insert here statement of nature of illness or disability)

I will be unable to travel from my home or place of confinement to the voting place in my precinct on election day.

I hereby make application for an official ballot or ballots on which I may vote at the general election specified. I will return the ballot or ballots by mail or will deliver them in person to the chairman of the board of elections of the county of my residence prior to 12:00 o'clock, noon, on Saturday preceding the election in which they shall be cast.

(Signature of applicant)

(Post office address to which ballots are to be mailed)

Subscribed and sworn to by _____ before
me this _____ day of _____, 19 _____.

(SEAL)

(Signature of officer administering
oath)

(Post office address of officer)

Form (2)

**AFFIDAVIT AND APPLICATION FOR BALLOTS BY VOTER WHO
EXPECTS TO BE UNABLE TO GO TO VOTING PLACE ON
ELECTION DAY BECAUSE OF SICKNESS OR PHYSICAL
DISABILITY OCCURRING PRIOR TO 6:00 O'CLOCK, P.M.,
ON WEDNESDAY BEFORE THE ELECTION, AND
WHOSE PHYSICAL CONDITION MAKES IT
IMPOSSIBLE FOR HIM TO SIGN HIS
OWN APPLICATION**

(Anyone who falsifies this statement is subject to a fine or imprison-
ment, or both.)

Application No. _____ issued to _____

(This line shall be filled out before application is issued.)

State of North Carolina

County of _____

I, _____, do solemnly swear that I am a registered
voter residing in _____ precinct, _____ township, in
the County of _____, North Carolina, and that I am
lawfully entitled to vote in that precinct at the general election to be
held therein on the _____ day of _____, 19 _____; that by
reason of sickness or physical disability, to wit:

(Insert here statement of nature of illness or disability)

I will be unable to travel from my home or place of confinement to
the voting place in my precinct on election day; and I further swear
that by reason of sickness or physical disability I am unable to sign
this application and that I have requested _____,
(insert here the name of the person who signs the application for the
voter), who is my _____
(insert the word "husband," "wife," "brother," "sister," "father,"
"mother," "son," "daughter," or "attending physician," whichever is
appropriate), to sign it for me.

I hereby make application for an official ballot or ballots on which
I may vote at the general election specified. I will return the ballot or
ballots by mail or will deliver them in person to the chairman of the
board of elections of the county of my residence prior to 12:00 o'clock,
noon, on Saturday preceding the election in which they shall be cast.

(Signature of person completing form
for applicant)

(Post office address to which ballots
are to be mailed)

Subscribed by the person whose name appears above and sworn to by
this _____ day of _____, 19 _____
(insert name of voter)

(SEAL)

(Signature of officer administering
oath)

(Post office address of officer)

Physician's Certificate

State of _____
County of _____

I, _____, do hereby certify that I am a physician,
duly licensed to practice medicine in the State of _____;
that I have examined _____ (insert applicant's name)
on _____ (insert date) for illness or physical disability,
and that I believe he will be physically incapable of being at the
voting place at the election to be held on the _____ day of
_____, 19 _____, and that he is physically unable to
sign an application for absentee ballots for the following reasons: —

(Insert reasons in space provided.)

This _____ day of _____, 19 _____

(Signature of physician)

(Address of physician)

Witness: _____

(Signature of person witnessing signing of physician's
certificate)

(Address of witness)

(c) *Absence for Sickness or Physical Disability Occurring after 6:00 o'clock, p.m., on Wednesday Prior to Election:* A voter expecting to be unable to go to the voting place to vote in person on election day because of sickness or other physical disability occurring after 6:00 o'clock, p.m., on Wednesday before the election, shall make written application for absentee ballots to the chairman of the board of elections of the county in which he is registered not later than 10:00 o'clock, a.m., on Monday preceding the election. The application shall be submitted in the form set out at the end of this subsection upon a copy which shall be furnished the voter by the chairman of the county board of elections.

The chairman of the county board of elections shall not issue or accept an application under the provisions of this subsection later than 10:00 o'clock, a.m., on Monday preceding the election in which the applicant seeks to vote.

The application shall be signed by the voter personally, or it may be signed for him by the voter's husband, wife, brother, sister, parent, or child. The application shall be signed in the presence of a witness who shall sign his name in the place provided on the form.

The certificate printed on the application form below the signatures of the applicant and his subscribing witness shall be filed in and signed in the presence of a witness by a licensed physician who is attending the

applicant. The witness to the physician's certificate shall sign his name in the place provided on the form.

The application form, when properly filled out, signed by or for the applicant in the presence of a subscribing witness as provided in this subsection, and certified and signed by the attending physician in the presence of a subscribing witness, may be transmitted by mail to the chairman of the board of elections of the county in which the applicant is registered, or it may be delivered to the chairman in person by the applicant or by his wife, husband, brother, sister, parent, or child.

The form for use in applying for absentee ballots under this subsection shall be as follows:

APPLICATION FOR BALLOTS BY VOTER WHO EXPECTS TO BE
UNABLE TO GO TO VOTING PLACE ON ELECTION DAY BECAUSE
OF SICKNESS OR PHYSICAL DISABILITY OCCURRING AFTER
6:00, P.M., ON WEDNESDAY BEFORE THE ELECTION, AND
CERTIFICATE OF ATTENDING PHYSICIAN

(Anyone who falsifies this statement is subject to a fine or imprisonment, or both.)

Application No. _____ issued to _____

(This line shall be filled out before application is issued.)

State of North Carolina

County of _____

I, _____, do hereby certify that I am a registered voter residing in _____ precinct, _____ township, in the County of _____, North Carolina, and that I am lawfully entitled to vote in that precinct at the general election to be held therein on the _____ day of _____, 19 ____; that by reason of sickness or physical disability occurring since 6:00 o'clock, p.m., last Wednesday, I will be unable to travel from my home or place of confinement to the voting place in my precinct on election day.

I hereby make application for an official ballot or ballots on which I may vote at the general election specified. I will transmit the ballot or ballots to the chairman of the board of elections of the county of my residence prior to 3:00 o'clock, p.m., on election day.

This _____ day of _____, 19 ____.

(Signature of applicant or person completing form for applicant)

(Address to which ballots are to be delivered)

(Relationship of person completing form for applicant if not completed by applicant in person)

Witness: _____
(Signature of person witnessing signing of application)

(Address of Witness)

Physician's Certificate

State of _____
County of _____

I, _____, do hereby certify that I am a physician, duly licensed to practice medicine in the State of _____; that I have examined _____

(insert applicant's name) on _____ (insert date) for an illness or physical disability occurring since 6:00 o'clock, p.m., last Wednesday, and that I believe that he (or she) will be physically incapable of being at the voting place at the election to be held on the _____ day of _____, 19 _____, for the following reasons: _____

_____ (insert reasons in space provided).

This _____ day of _____, 19 _____.

(Signature of physician)

(Address of physician)

Witness: _____
(Signature of person witnessing signing of certificate)

(Address of witness)

(d) *Application Forms Issued by Chairman of County Board of Elections:*

The chairman of the county board of elections shall be sole custodian of all absentee ballot application forms. In accordance with one of the following two procedures, he shall issue and deliver a single application form, upon request, to a person authorized to sign such an application under the provisions of this section:

1. He may deliver the form to a voter personally at the office of the county board of elections for the voter's own use; or
2. He may mail the form to a voter for his own use upon receipt of a written request from the voter.

The chairman shall not entrust any other person to deliver an application form to a voter, nor shall he mail an application form to a voter who has not made written request for one, except as provided in subsection (e) of this section.

At the time he issues an application form, the chairman of the county board of elections shall number it and write the applicant's name in the space provided therefor at the top of the form. At the same time the chairman shall insert the applicant's name and the number assigned his application in the Register of Absentee Ballot Applications and Ballots Issued provided for in §163-228.

The chairman shall issue only one application form to a voter unless a form previously issued is returned to the chairman and marked "Void" by him. In such a situation, the chairman may issue another application form to an authorized person, but he shall retain the voided application form in his records.

(e) *Applications for absentee ballots transmitted by mail or in person:*

An application for absentee ballots shall be made and signed only by the voter desiring to use them and shall be valid only when transmitted

to the chairman of the county board of elections in person or by the United States mail: Provided, that a voter who becomes sick or physically disabled after 6:00 o'clock, p.m., on Wednesday before the election may have an application prepared, signed, and transmitted to the chairman of the county board of elections in accordance with the provisions of subsection (c) of this section.

§163-228. Register of Absentee Ballot Applications and Ballots Issued; a public record.—The State Board of Elections shall furnish the chairman of the board of elections in each county of the State with a book to be called the Register of Absentee Ballot Applications and Ballots Issued in which shall be recorded whatever information and official action may be required by this article.

The Register of Absentee Ballot Applications and Ballots Issued shall constitute a public record and shall be opened to the inspection of any registered voter of the county at any time within thirty days before and thirty days after a State-wide general election, or at any other time when good and sufficient reason may be assigned for its inspection.

§163-229. Absentee ballots, container-return envelopes, and instruction sheets.—(a) *Absentee ballot form:* In accordance with the provisions of §163-230(c), persons entitled to vote by absentee ballot shall be furnished with regular official ballots; separate or distinctly marked absentee ballots shall not be used.

(b) *Container-return envelope:* In time for use not later than forty-five days before a State-wide general election, the county board of elections shall print a sufficient number of envelopes in which persons casting absentee ballots may transmit their marked ballots to the chairman of the county board of elections. Each container-return envelope shall be printed in accordance with the following instructions:

1. On one side shall be arranged identified spaces in which the chairman of the county board of elections may insert the name of the applicant, the number assigned his application, and the designation of the precinct in which his ballots are to be voted.

2. On the other side shall be printed the return address of the chairman of the county board of elections and the following affidavit:

Affidavit of Absentee or Sick Voter

State of _____

County of _____

I, _____, do solemnly swear that I am a resident and registered voter in _____ precinct, _____ County, North Carolina; that on the day of the general election, November _____, 19 _____, (check whichever of the following statements is correct)

() I will be absent from the county in which I reside.

() Due to sickness or physical disability, I will be unable to travel to the voting place in the precinct in which I reside.

I further swear that I made application for absentee ballots, and that I marked the ballots enclosed herein, or that they were marked for me in my presence and according to my instructions.

(Signature of voter)

Sworn to and subscribed before me this _____ day of _____,

(SEAL)

 (Signature of officer administering
oath)

(Title of officer)

Note: The acknowledgement of a member of the armed forces of the United States may be taken before any commissioned officer or non-commissioned officer of the rank of sergeant in the Army, petty officer in the Navy, or equivalent rank in other branches of the armed forces.

(c) *Instruction sheets:* In time for use not later than forty-five days before a State-wide general election, the county board of elections shall prepare and print a sufficient number of sheets of instructions on how voters are to prepare absentee ballots and return them to the chairman of the county board of elections.

§163-230. Consideration and approval of applications and issuance of absentee ballots.—The procedure to be followed in receiving applications for absentee ballots, passing upon their validity, and issuing absentee ballots shall be governed by the provisions of this section.

(a) *Record of applications received and ballots issued:* Upon receipt of a voter's written application for absentee ballots the chairman of the county board of elections shall promptly enter in the Register of Absentee Ballot Applications and Ballots Issued so much of the following information as he has not already entered there under the provisions of §163-227(d):

1. Name of voter applying for absentee ballots.
2. Number assigned voter's application when issued.
3. Precinct in which applicant is registered.
4. Address to which ballots are to be mailed.
5. Reason assigned for requesting absentee ballots.
6. Date application for ballots is received by chairman.

(b) *Determination of validity of applications for absentee ballots:* The county board of elections shall constitute the proper official body to pass upon the validity of all applications for absentee ballots received in the county; this function shall not be performed by the chairman or any other member of the board individually.

1. *Required meetings of county board of elections:* During the period opening forty-five days before a State-wide general election and closing at 6:00 o'clock, p.m., on Wednesday before the election, the county board of elections shall hold public meetings on Monday and Friday of each week at 10:00 o'clock, a.m., and it shall also hold public meetings at 10:00 o'clock, a.m., on both Thursday and Monday immediately preceding election day. These meetings shall be held at the county courthouse or at the elections board's office at the hour fixed by law. At these meetings the county board of elections shall pass upon applications for absentee ballots.

Upon a majority vote, the county board of elections may hold the required public meetings at an hour other than 10:00 o'clock, a.m., and it may hold more than one session on each Monday and Friday it is required to meet and may set the hours of any additional sessions. If the board desires to exercise either or both of the options granted by the preceding sentence, it shall do so prior to the date on which it is required to hold

its first public meeting under the provisions of this subsection and in time to give the notice required by the last paragraph of this subsection; thereafter, no change shall be made in the hours fixed for the board's public meetings on absentee ballot applications.

It shall not be necessary for the chairman of the county board of elections to give notice to other board members of weekly meetings of the board which are fixed as to time and place by this section.

If the county board of elections changes the time of holding its Monday and Friday meetings or provides for additional meetings on Mondays and Fridays in accordance with the terms of this subsection, notice of the change in hour and notice of the schedule of additional meetings, if any, shall be published in a newspaper circulated in the county, and a notice thereof shall be posted at the courthouse door of the county, at least one week prior to the time fixed for holding the first meeting under this subsection.

The county board of elections shall not be required to hold any of the meetings prescribed by this subsection unless, since its last preceding meeting, it actually has received one or more applications for absentee ballots which it has not passed upon. When no meeting is to be held for this reason, the chairman shall notify each of the other members of the county board of elections that the scheduled public meeting will not be held and state the reason for its cancellation.

2. Procedure at required meeting; making determination: At each public meeting of the county board of elections the chairman shall present for consideration, and the board shall pass upon, the validity of all applications for absentee ballots received since its last preceding public meeting held for that purpose. In connection with each application received by mail the chairman shall also present the container envelope in which the application was received. At each such meeting any registered voter of the county shall be heard and allowed to present evidence in opposition to, or in favor of, the issuance of absentee ballots to any voter making application for them.

The county board of elections may consider the registration book evidence of the voter's signature if available and any other evidence that may be necessary to pass upon such an application.

If the board finds that the applicant is a qualified voter of the county, that he is registered in the precinct stated in his application, that the assertions in his application are true, and that his application is in proper form, it shall approve his application for absentee ballots.

3. Record of board's determination; decision final: At the time the county board of elections makes its decision on an application for absentee ballots, the chairman shall enter in the appropriate column in the Register of Absentee Ballot Applications and Ballots Issued opposite the name of the applicant a notation of whether his application was "Approved" or "Disapproved." The decision of the board on the validity of an application for absentee ballots shall be final, subject only to such review as may be necessary in the event of an election contest.

(c) *Delivery of absentee ballots and container-return envelope to applicant:* When the county board of elections approves an application for absentee ballots, the chairman shall promptly issue and transmit them to the applicant in accordance with the following instructions:

1. On the top margin of each ballot the applicant is entitled to vote, the chairman shall write or type the words "Absentee Ballot No. ____"

and insert in the blank space the number assigned the applicant's application in the Register of Applications for Absentee Ballots and Ballots Issued. He shall not write, type, or print any other matter upon the ballots transmitted to the absent voter.

2. The chairman shall fold and place the ballots (identified in accordance with the preceding instruction) in a container-return envelope and write or type in the appropriate blanks thereon, in accordance with the terms of §163-229(b), the absentee voter's name, his application number, and the designation of the precinct in which his ballots are to be voted. The chairman shall leave the container-return envelope holding the ballots unsealed.

3. The chairman shall then place the unsealed container-return envelope holding the ballots, together with printed instructions for voting and returning the ballots, in an envelope addressed to the applicant at the post office address stated in his application, seal the envelope, and mail it at the expense of the county board of elections, or deliver it to the applicant in person: Provided, that in case of approval of an application received after 6:00 p.m. on Wednesday before the election under the provisions of §163-227(c), in lieu of transmitting the ballots to the applicant in person or by mail, the chairman may deliver the sealed envelope containing the instruction sheet and the container-return envelope holding the ballots to the applicant's husband, wife, brother, sister, parent, or child.

§163-231. Voting absentee ballots and transmitting them to chairman of county board of elections.—(a) *Procedure for voting absentee ballots:* In the presence of an officer authorized to administer oaths, having an official seal, the voter shall:

1. Mark his ballots, or cause them to be marked in his presence according to his instructions.

2. Fold each ballot separately, or cause each of them to be folded in his presence.

3. Place the folded ballots in the container-return envelope and securely seal it, or have this done in his presence.

4. Make and subscribe the affidavit printed on the container-return envelope according to the provisions of §163-229(b).

The officer administering the oath shall then complete the form on the container-return envelope and affix his seal in the place indicated. When thus executed, the sealed container-return envelope, with the ballots enclosed, shall be transmitted in accordance with the provisions of subsection (b) of this section to the chairman of the county board of elections who issued the ballots.

In the case of voters who are members of the armed forces of the United States, as defined in §163-245, the signature of any commissioned officer or noncommissioned officer of the rank of sergeant in the Army, petty officer in the Navy, or equivalent rank in other branches of the armed forces, as a witness to the execution of any certificate required by this or any other section of this article to be under oath shall have the force and effect of the jurat of an officer with a seal fully authorized to take and administer oaths in connection with absentee ballots.

(b) *Transmitting executed absentee ballots to chairman of county board of elections:* The sealed container-return envelope in which executed absentee ballots have been placed shall be transmitted to the chairman of the county board of elections who issued them as follows:

1. If the ballots were issued under the provisions of either subsection (a) or subsection (b) of §163-227, the sealed envelope shall be transmitted by the voter in person or by mail (at the voter's expense) in sufficient time for the executed ballots to reach the chairman of the county board of elections by 12:00 o'clock, noon, on the Saturday immediately preceding the State-wide general election. If such ballots are received later than that hour they shall not be accepted for voting.

2. If the ballots were issued under the provisions of subsection (c) of §163-227, the sealed envelope may be transmitted by the voter in person, or by mail (at the voter's expense), or it may be delivered to the chairman by the voter's husband, wife, brother, sister, parent, or child, in sufficient time for the executed ballots to reach the chairman of the county board of elections by 3:00 o'clock, p.m., on the day of the State-wide general election. If such ballots are received later than that hour they shall not be accepted for voting.

§163-232. Certified list of approved applications to be transmitted to State Board of Elections and posted; original applications to accompany list.—The chairman of the county board of elections shall prepare a list, in triplicate, of all applications for absentee ballots received by him which have been approved by the county board of elections. At the end of the list he shall execute the following certificate under oath:

State of North Carolina

County of _____

I, _____, Chairman of the _____ County Board of Elections, do hereby certify that the foregoing is a list of all applications filed with me for absentee ballots to be voted in the election on the _____ day of _____, 19____, which have been approved by the county board of elections. I further certify that I have issued ballots to no other persons than those listed therein, whose original applications are enclosed to the filed with the State Board of Elections; and I further certify that I have not delivered ballots for absentee voting to any person other than the voter himself, by mail or in person, except as provided by law in the case of approved applications received after 6:00 o'clock, p. m., on Wednesday before the election.

This the _____ day of _____, 19____.

(Signature of chairman of county board of elections)

Sworn to and subscribed before me this _____ day of _____, 19____. Witness my hand and official seal.

(Signature of officer administering oath)

(SEAL)

(Title of officer)

Before noon on the day before a State-wide general election, the chairman of the county board of elections shall send one copy of the list required by this section, together with the original of all applications for absentee ballots received by him, by registered mail to the Chairman of the State Board of Elections, at Raleigh, North Carolina. He shall post one copy of the list at a conspicuous place at the county courthouse door, and he shall retain the third copy for himself.

§163-233. Lists of absentee ballots received; distribution; delivering executed absentee ballots to appropriate registrars.—Before noon on the day of a State-wide general election, the chairman of the county board of elections shall prepare for each precinct a list, in quadruplicate, of all executed absentee ballots which he has received from absentee voters of the particular precinct prior to noon on the Saturday immediately preceding the election, and, in the case of absentee ballots issued under the provisions of §163-227(c), executed ballots which he has received at any time prior to making the list. The chairman shall see that two copies of the appropriate precinct list, together with the unopened container-return envelopes enclosing absentee ballots to be voted in the precinct, are delivered to the registrar before noon on the day of the election.

If, after preparing and delivering the lists and unopened container-return envelopes as prescribed in the preceding paragraph, the chairman should, before 3:00 p.m. on election day, receive additional executed absentee ballots issued under the provisions of §163-227(c), he shall prepare, in quadruplicate, a supplemental list for each affected precinct. The chairman shall have two copies of the appropriate supplemental precinct list, together with the unopened container-return envelopes enclosing the ballots recorded on the supplemental list, delivered to the precinct registrar before the polls are closed on election day.

The registrar shall post one copy of the list and one copy of the supplemental list, if any, as required by §163-154. He shall retain the other copy or copies until all challenges of absentee ballots have been heard and decided.

On election day the chairman of the county board of elections shall mail to the Chairman of the State Board of Elections, at Raleigh, North Carolina, one copy of each of the lists prepared under the provisions of this section. He shall retain the remaining copy or copies for his own use.

§163-234. Absentee ballots deemed voted upon delivery to registrar; opening container-return envelope and depositing ballots; rejected ballots.—An absentee ballot shall be deemed to be voted when delivered to the precinct registrar on the day of the election, but it shall not be deposited in a ballot box and shall not be counted except in accordance with the procedures outlined in this section.

As soon as the polls are closed, and before they sign the poll book, the precinct officials shall examine the container-return envelopes, record in the poll book the names of absentee voters whose ballots are voted and deposit their ballots in the proper ballot boxes as follows:

1. The precinct officials shall examine each unopened container-return envelope. If they find that the affidavit and jurat are not executed in due form, or that the voter did not sign his name to the affidavit printed on the envelope, or that the officer before whom the voter executed the affidavit did not affix his seal, the envelope shall be left unopened, and it shall be marked "Rejected."

2. If the examination required by the preceding paragraph reveals that the container-return envelope is in order, one of the judges of election shall call the name of the voter as it appears in the affidavit on the envelope. After examining the registration records, the registrar shall state whether the person bearing that name is duly registered and qualified to vote in the precinct. If the registrar finds him not to be registered, the envelope shall be left unopened, and it shall be marked "Rejected—Not Registered." If the

registrar finds him to be registered and qualified, and if his registration or right to vote by absentee ballot is not challenged, the responsible judge shall enter his name in the poll book with the notation "Absentee Voter." If a challenge is entered, the precinct officials shall proceed as provided in §163-89.

3. When the voter's name has been entered in the poll book under the provisions of the preceding paragraph, one of the judges of election shall open the container-return envelope by slitting it with a sharp instrument so as not to destroy, tear, or obliterate any part of the affidavit thereon. He shall then remove the ballots from the envelope and, without unfolding them and without examining how they are marked, he shall deposit each in the appropriate ballot box.

4. All container-return envelopes shall be filed with the county board of elections at the time of the county canvass when the precinct returns are filed. This requirement shall include those container-return envelopes from which ballots have been removed and deposited in ballot boxes, as well as those left unopened and marked "Rejected" or "Rejected—Not Registered" under the provisions of this section and those left unopened and marked "Challenge Sustained" under the provisions of §163-89. They shall be preserved intact by the chairman of the county board of elections for a period of six months, or longer if any contest shall then be pending concerning the validity of any absentee ballot delivered to him.

§163-235. Absentee voting where voting machines used.—Persons entitled to vote by absentee ballot in precincts in which voting machines are used shall vote on paper ballots furnished them in accordance with the provisions of this article. At voting places at which voting machines are used, container-return envelopes and absentee ballots shall be received, handled, counted, and filed with the county board of elections in accordance with the provisions of this article for voting places at which voting machines are not used. The total absentee ballot vote for each candidate and proposition shall be added to the totals shown on the voting machines, and the combined totals shall be entered on the official returns for the precinct.

§163-236. Violations by chairman of county board of elections.—The chairman of the county board of elections shall be sole custodian of blank applications for absentee ballots, official ballots, and container-return envelopes for absentee ballots. He shall issue and deliver blank applications for absentee ballots in strict accordance with the provisions of §163-227(d). The issuance of ballots to persons whose applications for absentee ballots have been approved by the county board of elections under the provisions of §163-230(c) is the responsibility and duty of the chairman of the county board of elections.

It shall be the duty of the chairman of the county board of elections to keep current all records required of him by this article and to make promptly all reports required of him by this article.

The willful violation of the terms of this section shall constitute a misdemeanor, and upon conviction, the offender shall be fined not less than one hundred dollars (\$100.00), or imprisoned not less than sixty days, or both, in the discretion of the court.

§163-237. Certain violations of absentee ballot law made criminal offenses.—(1) *False statements under oath made misdemeanor.*—If any person shall willfully and falsely make any affidavit or statement, under oath, which affidavit or statement under oath, is required to be made by the provisions of

this article, he shall be guilty of a misdemeanor, and upon conviction, shall be punished by a fine of not less than one hundred dollars (\$100.00), or imprisoned for not less than sixty days, or both, in the discretion of the court.

(2) *False statements not under oath made misdemeanor.*—If any person, for the purpose of obtaining or voting any official ballot under the provisions of this article, shall willfully sign any printed or written false statement which does not purport to be under oath, or which, if it purports to be under oath, was not duly sworn to, he shall be guilty of a misdemeanor, and upon conviction shall be fined not less than one hundred dollars (\$100.00), or imprisoned not less than sixty days, or both, in the discretion of the court.

(3) *Fraud in connection with absentee vote; forgery.*—Any person attempting to aid and abet fraud in connection with any absentee vote cast, or to be cast, under the provisions of this article, shall be guilty of a misdemeanor, and, upon conviction, be fined or imprisoned, in the discretion of the court. Any person attempting to vote by fraudulently signing the name of a regularly qualified voter shall be guilty of forgery, and be punished accordingly.

(4) *Violations not otherwise provided for made misdemeanor.*—If any person shall willfully violate any of the provisions of this article, or willfully fail to comply with any of the provisions thereof, for which no other punishment is herein provided, he shall be guilty of a misdemeanor, and upon conviction, shall be fined not less than one hundred dollars (\$100.00), or imprisoned not less than six months, or both, in the discretion of the court.

§163-238. Reports of violations to Attorney General and solicitors.—It shall be the duty of the State Board of Elections to report to the Attorney General of North Carolina, and to the solicitor of the appropriate solicitorial district, any violation of this article, or the failure of any person charged with a duty under its provisions to comply with and perform that duty, and it shall be the duty of the solicitor to cause such a person to be prosecuted therefor.

§163-239. Article 21 relating to absentee voting by servicemen and certain civilians not applicable.—Except as otherwise provided therein, Article 21 of this chapter, relating to absentee registration and voting by servicemen and certain civilians, shall not apply to or modify the provisions of this article.

§163-240 through §163-244 reserved for future use.

ARTICLE 21.

Military Absentee Registration and Voting in Primary and General Elections.

§163-245. Persons in armed forces, their wives, certain veterans, civilians working with armed forces, and members of Peace Corps may register and vote by mail.—(a) Any individual who is eligible to register and who is qualified to vote in any State-wide primary or election held under the laws of this State, and who is absent from the county of his residence in any of the capacities specified in subsection (b) of this section, shall be entitled to register by mail and to vote by military absentee ballot in the manner provided in this article.

(b) The provisions of this article shall apply to the following persons:

1. Persons serving in the armed forces of the United States, including (but not limited to) the Army, the Navy, the Air Force, the Marine Corps,

the Coast Guard, the Army Nurse Corps, the Navy Nurse Corps, the Women's Navy Reserve, the Marine Corps Women's Reserve, the Women's Army Corps, the Merchant Marine, and members of the National Guard and Military Reserve who on the day of a primary or general election are absent on active duty.

2. Wives of men serving in the armed forces of the United States residing outside the counties of their husbands' voting residence.

3. Disabled war veterans in United States government hospitals.

4. Civilians attached to and serving outside the United States with the armed forces of the United States.

5. Members of the Peace Corps.

§163-246. Provisions of Article 20 applicable except as otherwise provided; State Board of Elections to adopt regulations.—Except as otherwise provided in this article, registration by mail and absentee voting by individuals to whom this article is applicable shall be governed by the provisions of Article 20 of this chapter. By way of illustration rather than limitation, the provisions of this paragraph shall apply to the form of absentee ballots, certificates, and container-return envelopes; the manner of depositing and voting military absentee ballots; the counting and certifying of results; the hearing of challenges; and the preservation of container-return envelopes in which executed military absentee ballots are transmitted.

The State Board of Elections is authorized to adopt and promulgate whatever rules and regulations (not in conflict with other provisions of this chapter) it may deem necessary to carry out the true intent and purpose of this article.

§163-247. Methods of applying for absentee ballots.—An individual entitled to exercise the rights conferred by this article and who is absent from the county of his residence may apply for absentee ballots in either of the ways provided in this section.

(a) *Federal post card application form:* At any time prior to the State-wide primary or general election in which he seeks to vote the applicant may make and sign a written application to the Secretary of State for absentee ballots on the post card form prescribed in Public Law 712 of the 77th Congress. Upon receiving such an application, the Secretary of State shall record the applicant's name and residence address on a record maintained for that purpose and immediately transmit the application to the State Board of Elections. Upon receiving such an application from the Secretary of State, the State Board of Elections shall transmit it to the chairman of the board of elections of the county in which the applicant has his residence, together with instructions for handling the application under the provisions of this article.

(b) *Application to chairman of county board of elections:* In lieu of applying on the federal post card as provided in the preceding subsection, at any time prior to the State-wide primary or general election in which he seeks to vote the applicant may make and sign a written application to the chairman of the board of elections of the county of his residence upon a form prepared and furnished him upon request by the county board of elections. This form shall require the applicant's signature and shall elicit from him:

1. A request for absentee ballots to be voted in a specified State-wide primary or general election.

2. A statement of his political party affiliation if he seeks to vote by absentee ballot in a primary election.

3. A statement of his membership in the armed forces of the United States, or his membership in one of the other categories to which this article is made applicable in §163-245.

4. A statement of the precinct in which he is registered to vote, or, if the applicant is not registered, a statement of his address before entering military or other qualifying service and the period of time he resided at that address.

5. A statement of the address to which the absentee ballots should be mailed.

In lieu of using a form prepared and furnished by the county board of elections, the voter may apply in an informal writing. If the written application is signed by the voter and if it contains all the information required by this subsection, it shall be regarded as sufficient to permit the chairman of the county board of elections to act upon it.

§163-248. Register, ballots, container-return envelopes, and instruction sheets.—(a) *Register of Military Absentee Ballot Applications and Ballots Issued:* The State Board of Elections shall furnish the chairman of the board of elections in each county of the State with a book to be called the Register of Military Absentee Ballot Applications and Ballots Issued in which shall be recorded whatever information and official action may be required by this article. In lieu of furnishing this register, the State Board of Elections may provide for a separate military section in the register furnished under the provisions of §163-228 which shall be used for the same purpose.

The Register of Military Absentee Ballot Applications and Ballots Issued, whether contained in a separate book or maintained as a separate part of the register furnished under the provisions of §163-228, shall constitute a public record and shall be opened to the inspection of any registered voter of the county at any time.

(b) *Absentee ballot form:* Persons entitled to vote by absentee ballot under the terms of this article shall be furnished with regular official ballots; separate or distinctly marked absentee ballots shall not be used. The State Board of Elections and the county boards of elections shall have all necessary ballots printed and in the hands of the proper election officials not later than, in the case of a primary election, ten days after the time has expired for the filing of candidacy for county office, and in the case of a general election, the first day of September immediately prior thereto.

(c) *Container-return envelope:* The county board of elections shall print a sufficient number of envelopes in which persons casting military absentee ballots may transmit their marked ballots to the chairman of the county board of elections. In the case of a primary election, the container-return envelopes shall be printed and available for use not later than ten days after the time has expired for the filing of candidacy for county office, and in the case of a general election, not later than the first day of September immediately prior thereto. Each container-return envelope shall be printed in accordance with the following instructions:

1. On one side shall be arranged identified spaces in which the chairman of the county board of elections may insert the name of the applicant, the number assigned his application, and the designation of the precinct in which his ballots are to be voted.

2. On the other side shall be printed the return address of the chairman of the county board of elections and the following certificate:

Certificate of Absentee Voter

I, _____, do hereby certify that I am a resident and qualified voter in _____ precinct, _____ County, North Carolina, and that I am [check whichever of the following statements is correct]

- Serving in the armed forces of the United States
- The wife of a member of the armed forces of the United States residing outside the county of my husband's residence
- A disabled war veteran in a United States government hospital
- A civilian attached to and serving outside the United States with the armed forces of the United States
- A member of the Peace Corps

I further certify that I am affiliated with the _____ Party. [To be completed only if applicant seeks to vote in the primary of the political party to which he belongs.]

I further certify that the following is my official address:

[Unit (Co., Sq., Trp., Bn., etc.), Governmental Agency, or Office]

[Military Base, Station, Camp, Fort, Ship, Airfield, etc.]

[Street number, APO, or FPO number]

[City, postal zone, State, and zip code]

I further certify that I made application for absentee ballots and that I marked the ballots enclosed herein, or that they were marked for me in my presence and according to my instruction.

Witness my hand in the presence of _____ [insert name and rank of witnessing officer] this _____ day of _____, 19____.

(Signature of voter)

Witness: _____

(Signature of witnessing officer)

Rank or title of witnessing officer: _____

Unit to which witnessing officer is assigned: _____

Note: This certificate may be witnessed by any commissioned officer or any noncommissioned officer of the rank of sergeant in the Army, petty officer in the Navy, or equivalent rank in other branches of the armed forces of the United States.

(d) *Instruction sheets:* The county board of elections shall prepare and print a sufficient number of sheets of instructions on how voters covered by the provisions of this article are to prepare absentee ballots and return them to the chairman of the county board of elections. In the case of a primary, the instruction sheets shall be printed and available for use not later than ten days after the time has expired for the filing of candidacy for county office, and in the case of a general election, not later than the first day of September immediately prior thereto.

§163-249. Consideration and approval of applications and issuance of absentee ballots.—The procedure to be followed in receiving applications for absentee ballots under this article, passing upon their validity, and

issuing absentee ballots shall be governed by the provisions of this section.

(a) *Record of applications received and ballots issued:* Upon receipt of a voter's written application for absentee ballots in either of the forms permitted by §163-247, the chairman of the county board of elections shall promptly enter in the Register of Military Absentee Ballot Applications and Ballots Issued:

1. Name of voter applying for absentee ballots.
2. Applicant's political party affiliation as stated in an application for ballots in a primary.
3. Number assigned voter's application. (Numbers assigned applications received under the provisions of this article shall be chosen so as not to be identical with numbers assigned applications received under the provisions of Article 20.)
4. Precinct in which applicant is registered if he is already registered, or precinct in which applicant is registered by the chairman of the county board of elections under the provisions of subsections (b) and (c) of this section.
5. Address to which ballots are to be mailed.
6. Statement of basis on which applicant asserts his qualifications for obtaining absentee ballots under the provisions of this article.
7. Date application for ballots is received by chairman.

(b) *Determination of validity of applications for absentee ballots: handling applications for persons not registered:* The chairman of the county board of elections shall pass upon the validity of all applications for absentee ballots received under the provisions of this article, and he shall not delegate this responsibility.

If the chairman finds that the applicant is a qualified voter of the county, that he is registered in the precinct stated in his application, that the assertions in his application are true, that they demonstrate that he is entitled to vote by absentee ballot under the terms of this article, and that his application is in proper form, the chairman shall approve the application for absentee ballots.

If the chairman finds that the applicant is not registered to vote in the precinct in which he declares he is a resident, the chairman shall make a reasonable investigation as to the applicant's residence. If the chairman determines that the applicant is a resident of the precinct asserted, that he is eligible to register and vote under the Constitution and statutes of this State, and that his application is otherwise in order, the chairman shall register him according to the procedure specified in subsection (c) of this section and approve his application for absentee ballots.

(c) *Record of chairman's decision; registration by chairman:* At the time the chairman of the county board of elections makes his decision on an application for absentee ballots, he shall enter in the appropriate column in the Register of Military Absentee Ballot Applications and Ballots Issued opposite the name of the applicant a notation of whether his application was "Approved" or "Disapproved." In cases in which the chairman determines that an unregistered applicant is entitled to register, he shall also note in the appropriate column of the register the designation of the precinct in which the applicant is entitled to vote. This entry shall constitute registration and shall entitle an otherwise qualified applicant to receive absentee ballots.

(d) *Delivery of absentee ballots and container-return envelope to applicant:*

When the chairman of the county board of elections approves an application for military absentee ballots he shall promptly issue and transmit them in accordance with the following instructions:

1. On the top margin of each ballot the applicant is entitled to vote, the chairman shall write or type the words "Absentee Ballot No. _____" and insert in the blank space the number assigned the applicant's application in the Register of Military Absentee Ballot Applications and Ballots Issued. He shall not write, type, or print any other matter upon the ballots transmitted to the absentee voter.

2. The chairman shall fold and place the ballots (identified in accordance with the preceding instruction) in a container-return envelope and write or type in the appropriate blanks thereon, the absentee voter's name, his application number, and the designation of the precinct in which his ballots are to be voted. The chairman shall leave the container-return envelope holding the ballots unsealed.

3. The chairman shall then place the unsealed container-return envelope holding the ballots, together with printed instructions for voting and returning the ballots, in an envelope addressed to the applicant at the address stated in his application, seal the envelope, and mail it at the expense of the county board of elections.

§163-250. Voting absentee ballots and transmitting them to chairman of county board of elections.—(a) *Procedure for voting absentee ballots:* In the presence of any commissioned officer or noncommissioned officer of the rank of sergeant in the Army, petty officer in the Navy, or equivalent rank in other branches of the armed forces of the United States, the voter shall:

1. Mark his ballots, or cause them to be marked in his presence according to his instructions.

2. Fold each ballot separately, or cause each of them to be folded in his presence.

3. Place the folded ballots in the container-return envelope and securely seal it, or have this done in his presence.

4. Make and subscribe the certificate printed on the container-return envelope according to the provisions of §163-248(c).

The officer witnessing the voter's signature shall then complete the form on the container-return envelope by signing his name in the appropriate place and entering his rank or title and the designation of the unit to which he is assigned.

(b) *Transmitting executed absentee ballots to chairman of county board of elections:* When executed and witnessed in accordance with the provisions of subsection (a) of this section, the sealed container-return envelope in which executed absentee ballots have been placed shall be mailed by the voter to the chairman of the county board of elections who issued them.

§163-251. Certified list of approved military absentee ballot applications; record of ballots received; disposition of list; list constitutes registration.

—(a) *Preparation of list:* Before noon on the day of a State-wide primary or general election, the chairman of the county board of elections shall prepare for each precinct a list, in quadruplicate, of all applications for military absentee ballots which he has received, entered in the Register of Military Absentee Ballot Applications and Ballots Issued, and approved. This list shall be entitled "List of Applicants for Military Absentee Ballots to Whom Ballots Have Been Issued." By the name of each applicant whose executed military absentee ballots have been returned to him the chairman

shall enter the notation "Ballots Returned." At the end of the list the chairman shall execute the following certificate under oath:

State of North Carolina

County of _____

I, _____, Chairman of the _____ County Board of Elections, do hereby certify that the foregoing is a list of all applications filed with me for absentee ballots under the provisions of the Military Absentee Ballot Law to be voted in the _____ [insert either "primary" or "general," whichever is appropriate] election on the _____ day of _____, 19____.

I further certify:

1. That I have issued military absentee ballots to no other persons than those listed therein, whose original applications are herewith filed with the State Board of Elections;

2. That I have not delivered military absentee ballots to any person other than the voter himself, by mail or in person;

3. That I have received executed ballots from those absentee voters whose names are marked on this list with the notation "Ballots Returned," whose unopened container-return envelopes have been delivered to the appropriate precinct registrars for voting;

4. That this list constitutes the only precinct registration of military absentee voters whose names have not heretofore been entered on the regular registration of the appropriate precinct.

This the _____ day of _____, 19____.

(Signature of chairman of county board of elections)

Sworn to and subscribed before me this _____ day of _____, 19____. Witness my hand and official seal.

(Signature of officer administering oath)

(SEAL)

(Title of officer)

(b) *Distribution of list:* Before noon on the day of the primary or general election in which the military absentee ballots are to be cast, the chairman of the county board of elections shall send one copy of the list required by this section, together with the original of all applications for military absentee ballots received by him, by registered mail to the Chairman of the State Board of Elections at Raleigh, North Carolina. Also before noon he shall see that two copies of the appropriate precinct list, together with the unopened container-return envelopes enclosing military absentee ballots to be voted in the precinct, are delivered to the registrar at the voting place. The chairman shall retain one copy for himself.

If, after preparing and delivering the lists, original applications, and unopened container-return envelopes as prescribed in the preceding paragraph, the chairman should, before 3:00 p.m. on primary or election day, receive additional executed military absentee ballots, he shall prepare, in quadruplicate, a supplemental list for each affected precinct. The chairman shall immediately send one copy of the supplemental list required by this section, together with the original of all applications for military absentee ballots entered thereon, by registered mail to the Chairman of the State

Board of Elections, at Raleigh, North Carolina. He shall see that two copies of the appropriate supplemental precinct list, together with the unopened container-return envelopes enclosing the ballots recorded on the supplemental list, are delivered to the precinct registrar before the polls are closed on primary or election day. He shall retain one copy of each supplemental list for himself.

The registrar shall post one copy of the list and one copy of the supplemental list, if any, as required by §163-154. He shall retain the other copy or copies until all challenges of military absentee ballots have been heard and decided. The precinct posting of this list shall be sufficient to validate the ballots of absentee voters listed thereon when their ballots are in all other respects regular.

(c) *List constitutes registration:* The "List of Applicants for Military Absentee Ballots to Whom Ballots Have been Issued" prescribed by this section, when delivered to the registrars of the various precincts, shall constitute the only precinct registration of the military absentee voters listed thereon whose names are not already entered in the registration records of the appropriate precinct. Registrars shall not add the names of persons listed on the military absentee list to the regular registration books of their precincts.

§163-252. Unlawful absentee voting in primary made misdemeanor.—Any person not covered by the provisions of §163-245 who shall vote or attempt to vote by absentee ballot in any primary shall be guilty of a misdemeanor and punished by a fine of not more than two hundred dollars (\$200.00) or imprisoned for not more than six months, or both, in the discretion of the court.

§163-253. Article inapplicable to persons after change of status; re-registration required.—Upon discharge from the armed forces of the United States or termination of any other status qualifying him to register and vote by absentee ballot under the provisions of this article, the voter shall not be entitled to vote by military absentee ballot, and if he was registered under the provisions of this article his registration shall become void and he shall be required to register under the provisions of Article 7 before being entitled to vote in any primary or election.

§163-254 through §163-258 reserved for future use.

SUBCHAPTER VIII. CRIMINAL OFFENSES

ARTICLE 22.

Corrupt Practices and Other Offenses Against the Elective Franchise.

§163-259. Definitions.—When used in this article:

- (1) The term "campaign committee" includes any committee, association or organization which accepts contributions or makes expenditures for the purpose of influencing or attempting to influence the nomination or election of any candidate at any primary, general or special election;
- (2) The term "candidate" means an individual whose name is presented for any office to be voted upon any ballot at any primary, general or special election;

- (3) The term "contribution" means any gift, payment, subscription, loan, advance, deposit of money, or anything of value, and includes any contract, promise or agreement to give, subscribe for, pay, loan, advance or deposit any money or other thing of value to or for the benefit of any candidate at any primary, general or special election, and whether or not said contract, promise or agreement is legally enforceable;
- (4) The term "expenditure" means a payment, distribution, loan, advance, deposit or gift of money or anything else of value whatsoever, and includes a contract, promise or agreement to pay, distribute, give, loan, advance, or deposit any money or anything of value whatsoever, and whether or not such contract, promise, or agreement is legally enforceable;
- (5) The term "person" includes an individual, partnership, committee, association, corporation or any other organization or group of persons.

§163-260. Detailed accounts to be kept by candidates and others.—It shall be the duty of every candidate and the chairman and treasurer of any and every campaign committee to keep a detailed and exact account of:

- (1) All contributions made to or for such candidate or committee;
- (2) The name and address of every person making any such contribution, and the date thereof;
- (3) All expenditures made by or on behalf of such candidate or committee;
- (4) The name and address of every person to whom any such expenditure is made, and the date thereof.

§163-261. Detailed accounting to candidates of persons receiving contributions.—Every person who receives a contribution for a candidate or for a campaign committee in any primary, general or special election shall render such candidate or campaign committee, within five days after receipt of such contribution, a detailed account thereof, including the name and address of the person making such contribution.

§163-262. Detailed accounting of persons making expenditures.—Every person who makes any expenditure in behalf of any candidate or campaign committee in any primary, general or special election shall render to such candidate or campaign committee, within five days after making such expenditure, a detailed account thereof, including the name and address of the person to whom such expenditure was made.

§163-263. Statements under oath of pre-primary expenses of candidates; report after primary.—It shall be the duty of every person who shall be a candidate for nomination in any primary for any federal, State or district office, or for the State Senate in a district composed of more than one county, except where there shall be agreement for rotation as provided in §163-116, to file, under oath, ten days before such primary, with the Secretary of State, an itemized statement of all expenditures made by him or which he knows to have been made by anyone for him, and of all contributions made to him, directly or indirectly, and also to file, under oath, within twenty days after such primary, with the Secretary of State, an itemized statement of all expenditures made by him or which he knows to have been made by anyone else for him, and also of all contributions made to him, directly or indirectly, by any person, with detailed account of such contributions and expenditures as set out in §163-264. And it shall be the duty

of every person who shall be a candidate for nomination for the State Senate, except those to whom the preceding sentence applies, for the House of Representatives, and for any county office, to file a like statement with the clerk of the superior court of the county of his residence at the times hereinbefore prescribed for filing such statements by candidates for federal, State and district offices as set out in the preceding sentence: Provided, however, that candidates for the House of Representatives in multi-county representative districts shall file copies of the said statement with the clerk of superior court of each county in the representative district.

It shall be the duty of the chairman of the county board of elections to send a written notice to each candidate in a primary election who filed a notice of candidacy with said chairman, and who had one or more candidates to run against the candidate in the primary, of this requirement to file his or her primary campaign statement of expenses with the clerk of the superior court both before and after the primary. Such notice shall not be required where an unopposed candidate did not have to run in the primary and was nominated without party opposition.

§163-264. Contents of such statements.—The statement of contributions and expenditures as required by the preceding sections of this article shall be itemized as follows:

(1) The name and address of each person who has made a contribution to or for such candidate or to or for his campaign committee within the calendar year, together with the amount and date of such contribution;

(2) The total sum of all contributions made to or for such candidate or to or for his campaign committee during the calendar year;

(3) The name and address of each person to whom, during the calendar year, an expenditure has been made by or in behalf of such candidate or by or in behalf of his campaign committee, and the amount, date, and purpose of such expenditure;

(4) The name and address of each person by whom an expenditure has been made during the calendar year in behalf of such candidate or his campaign committee and reported to such candidate or campaign committee, and the amount, date, and purpose of such expenditure;

(5) The total sum of all expenditures made during the calendar year in behalf of such candidate or his campaign committee by any person and reported to such candidate or his campaign committee, and the amount, date, and purpose of such expenditure;

(6) The total sum of all expenditures made by such candidate or his campaign committee, or any person in his behalf during the calendar year.

§163-265. Statements required of campaign committees covering more than one county; verification of statements required.—A like statement as that required in the preceding section shall be filed by any and all campaign committees as hereinbefore defined with the Secretary of State not more than fifteen days nor less than ten days before any primary, general or special election, and not more than twenty days after any such primary, general or special election, if said campaign committee is making expenditures in more than one county; and if such campaign committee is making expenditures in only one county, a like or similar report so itemized shall be made within the same periods to the clerk of the superior court of such county.

All of the statements or reports of contributions or expenditures as in this article required of any candidate or campaign committee must be

verified by the oath or affirmation of the person filing such statement or report, taken before any officer authorized to administer oaths.

§163-266. Failure to report contributions or expenditures made misdemeanor.—(a) It shall be unlawful for any person to make any contribution or expenditure to aid, or in behalf of any candidate or campaign committee, in any primary, general or special election, unless the same be reported immediately to such candidate or campaign committee, to the end that it may be included by him or it in the reports required of him by law. Any person violating this section shall be guilty of a misdemeanor and upon conviction shall be fined or imprisoned, or both, in the discretion of the court.

(b) It shall be unlawful for any candidate or any chairman or treasurer of a campaign committee to fail to make under oath the report or reports required of him or it by §§163-263 to 163-265, or for any campaign committee to fail to furnish to a candidate a duplicate copy of the report to be made by it or its chairman or treasurer. Any person violating this section shall be guilty of a misdemeanor and upon conviction shall be fined or imprisoned, or both, in the discretion of the court.

§163-267. Secretary of State to report failure to file reports.—It shall be the duty of the Secretary of State, after the time has expired for the filing of statements of campaign contributions and expenditures with the Secretary of State by candidates in a primary election as is provided in §§163-263 to 163-265, to immediately thereafter report to the Attorney General of North Carolina the names and addresses of all candidates for federal, State, or district offices who have failed to file such statement in compliance with the provisions of said sections. Upon receipt of said report from the Secretary of State, it shall be the duty of the Attorney General, in accordance with the provisions of §163-268, to notify the proper prosecuting officer who shall prosecute any person violating the provisions of the preceding sections of this article.

§163-268. Secretary of State and superior court clerks to request reports; Attorney General and solicitors to prosecute.—It shall be the duty of the Secretary of State and the several clerks of the superior court to call upon the candidates and chairmen and treasurers of campaign committees for the reports required to be made by §§163-263 to 163-265. If any candidate or chairman or treasurer of a campaign committee shall fail or neglect to make to the Secretary of State the reports required by said sections, then the Secretary of State shall bring such failure to the attention of the Attorney General, whose duty it shall then be to initiate a prosecution against such candidate or chairman or treasurer of such campaign committee for such violation of this article. If the Attorney General shall be a candidate in any such primary or election, such duty as herein required to be performed by him with respect to any contest in which he participates shall be performed by the solicitor of the solicitorial district of which Wake County is a part. If a candidate or the chairman or treasurer of a campaign committee fails to make the report to the clerk of the superior court as required by said sections, then said clerk of the superior court shall bring such failure to the attention of the solicitor of the solicitorial district in which such county is a part, and said solicitor shall institute a prosecution for violation of said sections.

§163-269. Violations by corporations.—It shall be unlawful for any corporation doing business in this State, either under domestic or foreign charter, directly or indirectly to make any contribution or expenditure in

aid or in behalf of any candidate or campaign committee in any primary or election held in this State, or for any political purpose whatsoever, or for the reimbursement or indemnification of any person for money or property so used, or for any contribution or expenditure so made; or for any officer, director, stockholder, attorney or agent of any corporation to aid, abet, advise or consent to any such contribution or expenditure, or for any person to solicit or knowingly receive any such contribution or expenditure.

Any officer, director, stockholder, attorney or agent of any corporation aiding or abetting in any contribution or expenditure made in violation of this section shall, in addition to being guilty of a misdemeanor as hereinafter set out, be liable to such corporation for the amount of such contribution or expenditure, and the same may be recovered of him upon suit by any stockholder thereof. Any person violating this section shall be guilty of a misdemeanor and upon conviction shall be fined or imprisoned, or both, in the discretion of the court.

§163-270. Using funds of insurance companies for political purposes.—No insurance company or association, including fraternal beneficiary associations, doing business in this State shall, directly or indirectly, pay or use, or offer, consent or agree to pay or use, any money or property for or in aid of any political party, committee or organization, or for or in aid of any corporation, joint-stock company, or other association organized or maintained for political purposes, or for or in aid of any candidate for political office or for nomination for such office, or for any political purpose whatsoever, or for the reimbursement or indemnification of any person for money or property so used. An officer, director, stockholder, attorney or agent for any corporation or association which violates any of the provisions of this section, who participates in, aids, abets, advises or consents to any such violation, and any person who solicits or knowingly receives any money or property in violation of this section, shall be guilty of a misdemeanor, and shall be punished by imprisonment for not more than one year and a fine of not more than one thousand dollars.

Any officer aiding or abetting in any contribution made in violation of this section shall be liable to the company or association for the amount so contributed. The Insurance Commissioner may revoke the license of any company violating this section. No person shall be excused from attending and testifying, or producing any books, papers or other documents before any court or magistrate, upon any investigation, proceeding or trial for a violation of any of the provisions of this section, upon the ground or for the reason that the testimony or evidence, documentary or otherwise, required of him may tend to incriminate or degrade him; but no person shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter or thing concerning which he may so testify or produce evidence, documentary or otherwise, and no testimony so given or produced shall be used against him upon criminal investigation or proceeding.

§163-271. Intimidation of voters by officers made misdemeanor.—It shall be unlawful for any person holding any office, position, or employment in the State government, or under and with any department, institution, bureau, board, commission, or other State agency, or under and with any county, city, town, district, or other political subdivision, directly or indirectly, to discharge, threaten to discharge, or cause to be discharged, or otherwise intimidate or oppress any other person in such employment

on account of any vote such voter or any member of his family may cast, or consider or intend to cast, or not to cast, or which he may have failed to cast, or to seek or undertake to control any vote which any subordinate of such person may cast, or consider or intend to cast, or not to cast, by threat, intimidation, or declaration that the position, salary, or any part of the salary of such subordinate depends in any manner whatsoever, directly or indirectly, upon the way in which such subordinate or any member of his family casts, or considers or intends to cast, or not to cast his vote, at any primary or election. Any person violating this section shall be guilty of a misdemeanor and punished by fine or imprisonment, or both, in the discretion of the court.

§163-272. Disposing of liquor at or near voting places.—If any person shall give away or shall sell any intoxicating liquor, except for medical purposes and upon the prescription of a practicing physician, at any place within five miles of the voting place, at any time within twelve hours next preceding or succeeding any public election, whether general, local, or municipal, or during the holding thereof, he shall be guilty of a misdemeanor, and shall be fined not less than one hundred nor more than one thousand dollars.

§163-273. Offenses of voters; interference with voters; penalty.—(a) Any person who shall, in connection with any primary or election in this State, do any of the acts and things declared in this section to be unlawful, shall be guilty of a misdemeanor, and upon conviction shall be fined or imprisoned, or both, in the discretion of the court. It shall be unlawful:

(1) For a voter, except as otherwise provided in this chapter, to allow his ballot to be seen by any person.

(2) For a voter to take or remove, or attempt to take or remove, any ballot from the voting enclosure.

(3) For any person to interfere with, or attempt to interfere with, any voter when inside the voting enclosure.

(4) For any person to interfere with, or attempt to interfere with, any voter when marking his ballots.

(5) For any voter to remain longer than the specified time allowed by this chapter in a voting booth, after being notified that his time has expired.

(6) For any person to endeavor to induce any voter, while within the voting enclosure, before depositing his ballots, to show how he marks or has marked his ballots.

(7) For any person to aid, or attempt to aid, any voter by means of any mechanical device, or any other means whatever, while within the voting enclosure, in marking his ballots.

(b) Election officers shall cause any person committing any of the offenses set forth in subsection (a) of this section to be arrested and shall cause charges to be preferred against the person so offending in a court of competent jurisdiction.

§163-274. Certain acts declared misdemeanors.—Any person who shall, in connection with any primary or election in this State, do any of the acts and things declared in this section to be unlawful, shall be guilty of a misdemeanor, and upon conviction shall be fined or imprisoned, or both, in the discretion of the court. It shall be unlawful:

(1) For any person to fail, as an officer or as a judge or registrar of a primary or election, or as a member of any board of elections, to prepare the books, ballots, and return blanks which it is his duty under the law to pre-

pare, or to distribute the same as required by law, or to perform any other duty imposed upon him within the time and in the manner required by law;

(2) For any person to continue or attempt to act as a judge or registrar of a primary or election, or as a member of any board of elections, after having been legally removed from such position and after having been given notice of such removal;

(3) For any person to break up or by force or violence to stay or interfere with the holding of any primary or election, to interfere with the possession of any ballot box, election book, ballot, or return sheet by those entitled to possession of the same under the law, or to interfere in any manner with the performance of any duty imposed by law upon any election officer or member of any board of elections.

(4) For any person to be guilty of any boisterous conduct so as to disturb any member of any election board or any registrar or judge of election in the performance of his duties as imposed by law;

(5) For any person to bet or wager any money or other thing of value on any election;

(6) For any person, directly or indirectly, to discharge or threaten to discharge from employment, or otherwise intimidate or oppose any legally qualified voter on account of any vote such voter may cast or consider or intend to cast, or not to cast, or which he may have failed to cast;

(7) For any person to publish in a newspaper or pamphlet or otherwise, any charge derogatory to any candidate or calculated to affect the candidate's chances of nomination or election, unless such publication be signed by the party giving publicity to and being responsible for such charge;

(8) For any person to publish or cause to be circulated derogatory reports with reference to any candidate in any primary or election, knowing such report to be false or in reckless disregard of its truth or falsity, when such report is calculated or intended to affect the chances of such candidate for nomination or election;

(9) For any person to give or promise, in return for political support or influence, any political appointment or support for political office;

(10) For any chairman of a county board of elections or other returning officer to fail or neglect, willfully or of malice, to perform any duty, act, matter or thing required or directed in the time, manner and form in which said duty, matter or thing is required to be performed in relation to any primary, general or special election and the returns thereof;

(11) For any clerk of the superior court to refuse to make and give to any person applying in writing for the same a duly certified copy of the returns of any primary or election or of a tabulated statement in a primary or election, the returns of which are by law deposited in his office, upon the tender of the fees therefor;

(12) For any person willfully and knowingly to impose upon any blind or illiterate voter a ballot in any primary or election contrary to the wish or desire of such voter, by falsely representing to such voter that the ballot proposed to him is such as he desires.

§163-275. Certain acts declared felonies.—Any person who shall, in connection with any primary, general or special election held in this State, do any of the acts or things declared in this section to be unlawful, shall be guilty of a felony and upon conviction shall be imprisoned in the State's prison not less than four months or fined not less than one thousand dollars, or both, in the discretion of the court. It shall be unlawful:

(1) For any person fraudulently to cause his name to be placed upon

the registration books of more than one election precinct or fraudulently to cause or procure his name or that of any other person to be placed upon the registration books in any precinct when such registration in that precinct does not qualify such person to vote legally therein, or to impersonate falsely another registered voter for the purpose of voting in the stead of such other voter;

(2) For any person to give or promise or request or accept at any time, before or after any such primary or election, any money, property or other thing of value whatsoever in return for the vote of any elector;

(3) For any person who is an election officer, a member of an election board or other officer charged with any duty with respect to any primary or election, knowingly to make any false or fraudulent entry on any election book or any false or fraudulent returns, or knowingly to make or cause to be made any false statement on any ballot, or to do any fraudulent act, or knowingly and fraudulently omit to do any act or make any report legally required of such person;

(4) For any person knowingly to swear falsely with respect to any matter pertaining to any primary or election;

(5) For any person convicted of a crime which excludes him from the right of suffrage, to vote at any primary or election without having been restored to the right of citizenship in due course and by the method provided by law;

(6) For any person to take corruptly the oath prescribed for voters, and the person so offending shall be guilty of perjury;

(7) For any person with intent to commit a fraud to register or vote at more than one precinct or more than one time, or to induce another to do so, in the same primary or election, or to vote illegally at any primary or election;

(8) For any registrar or any clerk or copyist to make any entry or copy with intent to commit a fraud;

(9) For any election official or other officer or person to make, certify, deliver or transmit any false returns of any primary or election, or to make any erasure, alteration, or conceal or destroy any election ballot, book, record, return or process with intent to commit a fraud;

(10) For any person to assault any registrar, judge of election or other election officer while in the discharge of his duty in the registration of voters or in conducting any primary or election;

(11) For any person, by threats, menaces or in any other manner, to intimidate or attempt to intimidate any registrar, judge of election or other election officer in the discharge of his duties in the registration of voters or in conducting any primary or election;

(12) For any registrar, judge of election, member of a board of elections, assistant, marker, or other election official, directly or indirectly, to seek, receive or accept money or the promise of money, the promise of office, or other reward or compensation from a candidate in any primary or election or from any source other than such compensation as may be provided by law for his services;

(13) For any person falsely to make or present any certificate or other paper to qualify any person fraudulently as a voter, or to attempt thereby to secure to any person the privilege of voting.

§163-276. Convicted officials; removal from office.—Any public official who shall be convicted of violating any provision of Articles 13 or 22 of this chapter, in addition to the punishment provided by law, shall be removed

from office by the judge presiding, and, if the conviction is for a felony, shall be disqualified from voting until his citizenship is restored as provided by law, and if the conviction is for a misdemeanor, he shall be disqualified from voting for a period of two years.

§163-277. Compelling self-incriminating testimony; person so testifying excused from prosecution.—No person shall be excused from attending or testifying or producing any books, papers or other documents before any court or magistrate upon any investigation, proceeding or trial for the violation of any of the provisions of this article, upon the ground or for the reason that the testimony or evidence, documentary, or otherwise, required of him may tend to incriminate or degrade him, but such person may be subpoenaed and required to testify by and for the State relative to any offense arising under the provisions of this article; but such person shall not be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter or thing concerning which he may so testify or produce evidence, documentary or otherwise, and no testimony so given or produced shall be used against him upon any criminal investigation or proceeding, but such person so compelled to testify with respect to any acts of his own shall be immune from prosecution on account thereof, and shall be pardoned for any violation of law about which such person shall be so required to testify.

§163-278. Duty of Attorney General and solicitors to prosecute violations of article.—It shall be the duty of the Attorney General, the solicitors of the several solicitorial districts, and all prosecuting attorneys of courts inferior to the superior court, to make diligent inquiry and investigation with respect to any violations of this article, and said officers are authorized and empowered to subpoena and compel the attendance of any person or persons before them for the purpose of making such inquiry and investigation.

Sec. 2. All laws and clauses of laws, except local and special acts relating to primaries and elections, in conflict with this Act are hereby repealed.

Sec. 3. This Act shall become effective upon its ratification.

PART III
EXPLANATORY ANNOTATIONS

The Commission submits the following Explanatory Annotations to accompany its draft of a bill embodying its recodification of the primary and general election laws of North Carolina. These annotations are divided into two parts:

1. A cross-reference index.
2. Explanatory comments on each section in the recodification.

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SECTION-BY-SECTION COMMENTS ON RECODIFICATION

Set out below for each section of the recodification is an indication of its source or sources in the present law, together with an explanatory comment.

SUBCHAPTER I.

TIME OF PRIMARIES AND ELECTIONS

ARTICLE 1.

Time of Primaries and Elections.

§163-1. Time of regular elections and primaries.

Source: §§163-2 [State officers], -3 [presidential electors], -4 [congressmen, legislators, county officers, solicitors], -5 [township officers], -114 [judges, solicitors], -100 [United States senators], -117 [primary date], -129 [primary filing]; 147-4 [State executive officers]; 106-10 [Commissioner of Agriculture]; 95-2 [Commissioner of Labor]; 58-5 [Commissioner of Insurance]; 7-2 [Supreme Court justices], -41 [superior court judges], -43 [solicitors]; 7A-140 [district judges]; 153-4 [county commissioners]; 2-2 [clerk of superior court]; 161-1 [register of deeds], -2 [register of deeds]; 162-1 [sheriff]; 152-1 [coroner]; 155-1 [county treasurer]; 151-1 [constable].

Comment: As the large number of source sections cited above indicates, the new draft is an attempt to summarize in tabular form all existing sections of the law requiring that named State, district, and county officials be elected—how and when.

Subsection (a): No intentional change, although an attempt has been made to simplify the complicated phraseology of some of the present sections. Where base years are used in present statutes, the date has been made current. Under the "Term of Office" column, a date for the beginning of each term has been inserted except for members of the General Assembly. The date set for the beginning of terms of United States Senator and Congressman has been taken from present §163-102.

Subsection (b): This is taken directly from §163-117 (first paragraph). It also covers all the provisions of §163-129 except the portion referring to the necessity of filing notice, which has been incorporated in new §163-106.

Subsection (c): This is drawn from §163-2 and the second paragraph of §163-117.

§163-2. Hours of primaries and elections.

Source: §163-179.

Comment: "Voting places" has been substituted for "voting precincts" to make the section's language conform to the standard terminology of the recodification. A somewhat more explicit listing of the kinds of elections in which the section applies has been inserted to make it conform with new §163-135.

ARTICLE 2.

Time of Elections to Fill Vacancies.

§163-8. Filling vacancies in State executive offices.

Source: §163-7

Comment: The new draft is substantially identical with the provisions of Article III, §13, of the North Carolina Constitution, as amended by vote of the people at the general election of 1962.

No material change from language used in constitutional section.

The present section is misleading and inadequate, primarily because it does not state that the Governor is to make appointments until elections can be held; further, it lumps executive officers with judicial officers, and, finally, it seems to leave open what should be done in the event there is a vacancy in the position of Lieutenant Governor. See *Thomas v. State Board of Elections*, 256 N. C. 401, 124 S. E. 2d 164 (1962).

For these reasons, plus the fact that the amended language of the Constitution is very clear, the new draft is almost literally lifted from the Constitution.

§163-9. Filling vacancies in State and district judicial offices.

Source: §§7-48; 7A-142

Comment: The new draft is substantially identical with the provisions of Article IV, §17, of the North Carolina Constitution, as amended by vote of the people at the general election of 1962.

No material change from language used in constitutional section.

Vacancies in Supreme and superior court positions are now dealt with in §163-7 and in §7-48. Both are inadequate in that they do not mention the appointments to be made by the Governor until an election can be held. Vacancies in district court positions are dealt with in §7A-142, the provisions of which have been inserted here for the sake of completeness.

§163-10. Filling vacancy in office of solicitor.

Comment: The new draft is substantially identical with the provisions of Article IV, §17, of the North Carolina Constitution, as amended by vote of the people at the general election of 1962.

No material change from language used in constitutional section.

Vacancies in solicitorships are now dealt with in §163-7 and nowhere else. That section is inadequate in that it does not mention the appointment to be made by the Governor until an election can be held.

§163-11. Filling vacancies in the General Assembly.

Source: §163-6

Comment: Some rearrangement has been attempted to reduce the awkwardness of the present section.

"Unexpired term" has been substituted for "vacancy" in one place. "Vacating member" has been substituted for "deceased or resigned member."

The section is virtually identical with Article II, §13, of the North Carolina Constitution, as amended by vote of the people at the general election of 1952.

§163-12. Filling vacancy in United States Senate.

Source: §§163-101, -102

Comment: The new draft combines §§163-101 and 163-102.

It should be noted, however, that the form of the second sentence of the new draft follows the pattern in new §163-8 rather than that presently used in §163-102. This seems to be a more straightforward treatment of the 30-day provision. The portion of §163-102 concerning the canvass has been transferred to new §163-189.

§163-13. Filling vacancy in United States House of Representatives.

Source: §163-105

Comment: The unnecessary statement that the special election "shall be conducted in like manner as regular elections" has been dropped as surplusage. The first sentence of new subsection (b) is an addition, but it is felt that it makes the remainder of the subsection easier to understand.

The last sentence of the present section has been dropped as surplusage.

SUBCHAPTER II. ELECTION OFFICERS

ARTICLE 3.

State Board of Elections.

§163-19. State Board of Elections; appointment; term of office; vacancies; oath of office.

Source: §163-8

Comment: The new draft divides the section into unnumbered paragraphs, each dealing with a separate topic noted in the section heading. The section heading has been amended to include "vacancies" and "oath of office."

The expression "registered voters" has been used in the new draft to replace "electors" because it is more specific and because it is more frequently used in the present election laws. Where possible, the word "said" has been eliminated as an unnecessary legalism.

The date for expiration of present terms has been up-dated. The provision for filling vacancies has been transferred to this section from §163-9. It seems more appropriate here than in a section dealing with Board meetings.

The provision of §163-9 requiring the Board members to take an oath of office has been transferred to this section in order to consolidate all provisions dealing with qualification. No oath of office is now provided in the election laws. G. S. 11-6 and G. S. 11-9 require all public officers to take oaths to support the United States and North Carolina Constitutions, and G. S. 11-11 provides an oath of office for positions for which no specific oath is provided. The oath inserted in the new draft is drawn from those found in G. S. Chapter 11.

§163-20. Meetings of Board; quorum; minutes.

Source: §163-9

Comment: The following provisions have been transferred from this section to new §163-19: (a) portion of first paragraph dealing with oath and election of chairman and secretary; (b) the third paragraph concerning vacancies. The last paragraph, dealing with pay, has been transferred to §163-21. A sentence defining a quorum has been inserted at the opening of the third paragraph in the new draft. The requirement that the Board keep minutes and a minute book has been transferred to this section from §163-10, para. (13), and has been made more specific.

§163-21. Compensation of Board members.

Source: §163-9

Comment: In substance this new section changes nothing appearing in the last paragraph of present §163-9 except to substitute a general reference to the biennially amended statute dealing with pay of State boards for the outdated dollar figure. It is placed in a separate section to facilitate location.

§163-22. Powers and duties of State Board of Elections.

Source: §§163-10, -141, -183

Comment: In place of the present numbered list of "duties," an attempt has been made to group the related powers and duties in a series of paragraphs intended to bring together all provisions on the same subject. The last paragraph has been transferred to new §163-23. The word "powers" has been inserted in the section heading to make it more accurate.

Listed below are the numbered "duties" in the present statute and the place in the new draft in which they have been placed:

Present numbered ¶

New ¶

(1)	(c)
(2)	(a)
(3)	(b)
(4)	(b)
(5)	(e)
(6)	(e)
(7)	(f)
(8)	(g)
(9)	(c)
(10)	(c)
(11)	(d)
(12)	(i)
(13)	Transferred to §163-20
(14)	(j)
(15)	(a)
(16)	

This is now obsolete in the light of §163-55; omitted.

New paragraph (a) includes the substance of §163-183 and makes that section unnecessary.

New paragraph (b) contains an additional requirement, i.e., that the State Board of Elections furnish election officials with copies of its regulations as well as copies of the election laws. (This the Board is already doing.) Compare Article 18, G. S. Ch. 143.

New paragraph (c), in dealing with the power of the State Board to remove a member of a county board of elections, combines the provisions of the last sentence in present item (10) and the first two sentences of §163-13. It should be noted that the power to make a new appointment after *removal* is placed wholly within the discretion of the State Board; it does not have to rely on party recommendations. A provision for notice and hearing before removal is inserted to make plain what is already the practice.

To new paragraph (e) has been transferred the substance of §163-141. Its location there, in the Primary Law (Article 19, G. S. Ch. 163), tends to suggest that its provisions do not apply in general elections. By placing it here this interpretation can be eliminated.

§163-23. Powers of chairman in execution of Board duties.

Source: §163-10

Comment: With minor editorial changes this new section is nothing more than the last paragraph of present §163-10. It is placed in a separate section for ease of location and because it refers to powers of the Board *chairman* rather than to powers of the full Board.

§163-24. Power of State Board of Elections to maintain order.

Source: §163-82

Comment: Those portions of the present section which deal with the State Board have been recodified here so as to group State Board powers in a single article. See note on §163-34.

ARTICLE 4.

County Board of Elections.

§163-30. County boards of elections; appointments; term of office; qualifications; vacancies; oath of office.

Source: §163-11

Comment: Most of the last sentence of the first paragraph has been set up as a separate paragraph at the end of the section. The section heading has been expanded to include "vacancies" and "oath of office" to reflect additions to the text.

"Registered voters" has been used to replace "electors."

In the first paragraph of the new draft it is made clear that terms for county board members begin on Friday before the tenth Saturday before the primary whether or not appointments are made on that date. This seems to be the intention of the present law, but the language needs clarification. The fourth paragraph of the new draft is a re-write of the last sentence of the present first paragraph, but no change is made in its substance. Closely related to appointments is the filling of vacancies, so the fifth paragraph of the new draft has been inserted. It is drawn from present §§163-12 and 163-13. Note that the words "for any cause other than removal" (from §163-13) have been inserted in this paragraph to make explicit what is pointed out in comment on new §163-22(c). The duty to fill the vacancy has been placed on the full State Board rather than the State Board "or the chairman," to eliminate what seems to be fertile basis for confusion.

An appropriate oath of office has been inserted in the last paragraph to supply a gap in the present statute. It is based on those set out in G.S. Ch. 11. Compare oath for members of State Board of Elections in new §163-19.

Note: The expression "elective public office" is not as restrictive as Article XIV, §7 of the N. C. Constitution. Compare present §163-15.

§163-31. Meetings of county boards of elections; quorum; minutes.

Source: §163-12

Comment: The second paragraph dealing with vacancies has been transferred to new §163-30. The third paragraph dealing with pay has been set up in a separate section §163-32. This is done to improve order and to keep provisions from being hidden.

The board is empowered to hold its organizational meeting at the "board office" as an alternative to the courthouse. The required meeting on the seventh Saturday before the primary mentioned in §163-15 is picked up here for clarity. The oath and oath-taking having been covered in new §163-30 it has been mentioned here by reference only. A needed provision has been inserted defining a quorum.

The provision of §163-14 (14) requiring the board to keep minutes has been transferred to this section, and a provision concerning custody has been inserted.

§163-32. Compensation of members of county boards of elections.

Source: §§163-12, -12.1

Comment: The expression "counties which adopt full-time and permanent registration" has been substituted for the awkward "counties in which a modern looseleaf and visible registration system has been established as permitted by G. S. 163-43, with a full time and permanent registration as authorized by G. S. 163-31 and 163-31.2."

The last paragraph of §163-12 now reads awkwardly. It has been rewritten and inserted in this new section (without changing its meaning) and at the same time the provisions of §163-12.1 (which do not require a separate section) have been combined with it.

§163-33. Powers and duties of county boards of elections.

Source: §§163-14, -18

Comment: Although the list format has been retained, an effort has been made to combine related powers and duties under single items. The word "powers" has been added to the section heading to reflect the true scope of the section.

Where the word "booths" and "stalls" appear in the present statute the expression "voting booths" is inserted to avoid misinterpretation.

Listed below are the numbered "duties" in the present statute and the place in the new draft in which they have been placed:

<i>Present numbered ¶</i>	<i>New ¶</i>
(1)	(d)
(2)	(d)
(3)	(g)
(4)	Part in (j); part in (b)
(5)	(a)
(6)	(f)
(7)	(h)
(8)	(f)
(9)	(g)
(10)	(c)
(11)	(e)
(12)	(i)
(13)	(i)
(14)	Transferred to new §163-31
(15)	(k)
(16)	(l)

New paragraph (b) is related to §§163-15, -17, and -18. As rewritten it makes §163-18 superfluous. Note the deletion of the words authorizing the full board to remove precinct officials. This resolves a conflict with §163-13.

New paragraph (c) [portion drawn from present paragraph (10)] requires the county board of elections to report "violations" rather than "the facts" to the prosecuting authorities. This is in line with the duty of State Board of Elections in §163-10.

Since present paragraph (4) deals with board *employees* as well as precinct *officials* it may be the subject of confusion; this is the reason for splitting the present paragraph into two parts—(j) and (b).

§163-34. Power of county board of elections to maintain order.

Source: §163-32

Comment: Those portions of the present section which deal with the county board of elections have been recodified here so as to group county board powers in a single article. The portions of this section dealing with precinct officials are covered by new §163-48, and those dealing with the State Board of Elections appear in new §163-24.

§163-35. Executive secretary to county board of elections in county having full-time and permanent registration.

Source: §163-14.1

Comment: The reference to "the supervisory heads of county units, where such units have been established as provided by G. S. 163-14.2" has been deleted. This is done because G. S. 163-14.2 has been dropped from the statute.

ARTICLE 5.

Precinct Election Officials.

§163-41. Precinct registrars and judges of election; special registration commissioners; appointment; terms of office; qualifications; vacancies; oaths of office.

Source: §163-15, -16, -17, -164, -180

Comment: The section has been divided into three subsections, each with a sub-title. Subsection (a) incorporates the first paragraph of the present section and also all of §163-17; it also incorporates the portions of §163-164 dealing with the oath for registrars and judges and the part of §163-180 which deals with the party affiliation of precinct officials in a primary in which only one party participates. Subsection (b) incorporates the second paragraph of the present section. Subsection (c) is nothing more than present §163-16. Involved construction has been eliminated whenever possible.

Subsection (a)

1. Since the meeting on the seventh Saturday before the primary is not the first meeting of the county board of elections after its appointment, the expression has been deleted.

2. At the end of the first paragraph a sentence has been inserted to clarify the nature of a second primary. This conforms to the views expressed by the Attorney General in a letter to Raymond C. Maxwell, June 1, 1962.

3. In the second paragraph "justices of the peace" have been eliminated from the exception in conformity with the amended language of Article XIV, §7, of the North Carolina Constitution.

4. At the end of the third paragraph the words "or assistant" have been deleted because they more appropriately appear in the section dealing with assistants, §163-42.

5. The phrase "although it shall not be required to do so" has been inserted at the end of the fourth paragraph to emphasize what has been the consistent interpretation of the law.

6. The fifth and sixth paragraphs of the new draft are drawn from present §163-17 plus part of §163-162. The expression "bystander" used in §163-162 has been deleted because it seems to limit the precinct officials' choice in an emergency situation, and this does not seem to jibe with §163-17. It should be noted that the emergency appointments made at the precinct can be terminated by the chairman of the county board of elections. At the present time this is the subject of confusion.

7. The oath set out for registrars, judges, and assistants is drawn from G. S. Ch. 11 and from §§163-31 and 163-164.

Subsection (b)

1. The present statute states that "Such special registration commissioners shall be selected upon nomination in the same manner as that provided for nomination of regular registrars." Read literally, this requires recommendations on a *precinct* basis. Since this seems to conflict with the reason for using commissioners it has been omitted in the draft.

2. It should be noted that, as distinguished from the provision on registrars, the present statute carries no double office holding prohibition.

3. In drafting an appropriate oath, the registrar's oath has been used except that portion which deals with matters occurring on primary or election day.

Subsection (c)

This is nothing more than §163-16 simplified and broadened to include

special registration commissioners. This addition seems desirable in view of the fact that no statute presently requires publication of the names of commissioners. As an alternative to publishing the names of precinct officials at the courthouse door, their names may be published in a newspaper. This is done to make the section consistent with new §163-128 dealing with establishment and alteration of precinct lines and voting places.

§163-42. Assistants at polls; appointment; term of office; qualifications; oath of office.

Source: §163-181

Comment: This statute seems to be more appropriate in the article dealing with precinct officials than where it is presently codified. The provision dealing with compensation for assistants has been transferred to new §163-46, the section which deals with the pay of all individuals who work at the precinct level.

The word "clerks" as synonymous with "assistants" has been deleted. One word is sufficient; the use of two leads to confusion.

The provision for an oath for assistants has been transferred to this section from the last paragraph of §163-15 and from §163-164. The statement concerning ineligibility of candidates is transferred to this section from the last sentence of the first paragraph of present §163-15. The present law does not specify how long assistants are to serve; this has been spelled out in the new draft. It should be noted that no provision is made for the party affiliation of assistants.

§163-43. Ballot counters; appointment; qualifications; oath of office.

Source: §§163-84, -84.1

Comment: There is no section on ballot counters in the present article dealing with precinct officials. The office is provided for in §§163-84 and 163-84.1 (this last in permanent registration counties). Note also that §163-84 covers important procedural matters. It seems advisable to put all provisions authorizing appointment, qualifications, etc. for persons who work at the precinct level in this article. The particular responsibilities of the officials can be dealt with in the procedural sections. Thus, this new section has been drafted.

The new draft adheres to §163-84, except (1) the text of the oath has been inserted in lieu of language describing the oath, and (2) the last sentence of the new draft is taken from §163-84.1. This makes unnecessary a separate section on ballot counters in full-time and permanent registration counties.

§163-44. Markers for general elections; appointment; qualifications; oath of office.

Source: §163-172

Comment: There is no section dealing with markers in the present article on precinct officials. This office is provided for in §163-172, a section that is concerned with the way in which markers operate. By placing this new section in the article providing for precinct officials it becomes easier for the user to understand the official status of a marker. The marker's work is better left in the section dealing with election procedures.

The text of an appropriate oath has been inserted in lieu of language describing an oath; the portions of §163-172 concerning the oath of the registrar and judges made unnecessary by new §163-41 have been dropped.

§163-45. Watchers; appointment.

Source: §§163-182, -126

Comment: The wording of present §163-182 has been rearranged to follow

generally the pattern used in other statutes providing for the appointment of precinct election officials. For purposes of clarity the section has been divided into three paragraphs. It is placed in this article to show how watchers are treated as precinct officials.

The word "challengers" has been eliminated from the section heading as being unnecessary. One title for the position—"watcher"—seems adequate. The right of a watcher to challenge has been left intact.

(1) The new draft supercedes the portion of §163-126 which permits appointment of a party "observer" in the primary because it seems unnecessary. (2) The statement that no oath is required has been inserted to specify what is already implicit. (3) Since the registrar and judges are allowed to reject watchers, it seems logical to require that the list of appointees for each party be handed to the registrar rather than to a single judge of election, thus this change has been made.

§163-46. Compensation of precinct officials and assistants.

Source: §§163-20, -20.1, -162

Comment: In addition to §163-20, the new draft supplants the following portions of §163-162:

In addition to the compensation for performance of the duties required in the registration of voters, each registrar shall receive for his services on election day the sum of five dollars. . . . The bystander sworn in to act as registrar or judge shall receive the same compensation as the registrar is entitled to. . . .

The first quoted sentence is now obsolete in the light of present §163-20. The second quoted sentence is internally inconsistent. The present section states that markers are not to be paid for their services; in the new section, ballot counters and watchers have been added to the list because there is no provision for paying them in the law—except in full-time and permanent registration counties. The substance of §163-20.1 has been incorporated into the second paragraph of the new draft of this section.

§163-47. Powers and duties of registrars and judges of election.

Source: §163-21

Comment: The title has been broadened to include "powers" as well as duties. The text has been changed from a list to a series of paragraphs on allied subjects.

"Polling place" has been changed to "voting place." The word "voters" has been changed to "persons" in the last sentence of new Subsection (b). The word "electors" has been changed to "registered voters" in new Subsection (c).

The detailed provisions for maintaining order by precinct officials in present Subsection (2) have been removed from this section and placed in a separate new section, §163-48. Subsection (5), dealing wholly with one detail of election day procedure has been deleted, and is transferred to new §163-150 (f) where it will be appropriate. In new Subsection (b) it is specified that the registrar has no authority to delegate his registration duties; this only makes clear what is already the law. New Subsection (f) has been inserted to insure that matters assigned to the precinct officials as a group are decided by majority vote. This is already implied.

§163-48. Maintenance of order at place of registration and voting.

Source: §§163-21 (2), -82

Comment: "Elector" (when imprecisely used in the original text to mean one seeking to register) has been changed to "person." The words "voting

precinct" in the original, having no clear meaning in the context, have been changed to "place of registration or voting."

This section is nothing more than a recodification of Subsection (2) of present §163-21. It neither adds nor subtracts from that section. It should be noted, however, that present §163-82 contains language which, in a confusing way, grants precinct officials power to commit to jail persons who break up or disturb their "sessions." See comment on new §163-34.

SUBCHAPTER III. QUALIFYING TO VOTE

ARTICLE 6.

Qualifications of Voters.

§163-54. Registration a prerequisite to voting.

Source: §163-27

Comment: Since the import of this section affects all other provisions of this article it has been placed at the opening rather than in the middle.

Two words have been inserted in the new draft. The word "legally" has been inserted before the word "registered" because it appears there in Art. VI, §3, of the N. C. Constitution, on which this section is based. The words "primary or" have been inserted to make clear what is already implicit.

§163-55. Qualifications to vote; exclusion from electoral franchise.

Source: §§163-24, -25

Comment: The second paragraph is nothing more than present §163-24. It is placed in this section so as to consolidate all qualifications and disqualifications for registration and voting (except registration and literacy) into a single section.

(1) The words "ward or other election district," not being used at the present time in this State, have been deleted as unnecessary. (2) Instead of the words "qualified elector" found in the first paragraph of present §163-25, the new draft employs the expression "qualified to register and vote." This is a more accurate definition of the citizen's status.

The word "ensuing" has been inserted before the word "election" to make clear what is already the consistent interpretation of the law. The rules for determining residence, have been transferred to new §163-57. One of them [(10)], not being a rule for determining residence, belongs more appropriately in new Article 8 dealing with Challenges.

§163-56. State residence requirement shortened for presidential elections.

Source: §163-112.1

Comment: This section now appears in Article 17. Since it bears directly on the issue of qualifications it has been transferred to this article. The section heading has been made more precise.

The section has been made specifically applicable to registration as well as voting. This is not anything more than a matter of language.

§163-57. Residence defined for registration and voting.

Source: §163-25

Comment: This new section is formed from the second paragraph and enumerated list in present §163-25. Item (10) in the list is omitted here but is codified in new Article 8 on Challenges.

Set out below is a table showing how the existing items have been re-arranged in the draft:

<i>Present Paragraph #</i>	<i>New Paragraph #</i>
1	1
2	2
3	3
4	deleted
5	4
6	5
7	7
8	8 and 9
9	6
10	transferred to new Article 8 dealing with Challenges.

Present (4) has been deleted as unnecessary and confusing. Voting residence is based on the qualification of the individual, not the residence of his or her spouse or "family." As indicated below, for the same reason §163-26 is deleted.

In present (7), recodified as (7), the word "only" has been dropped as unnecessary to the meaning. The entire paragraph has been rearranged but without any substantive change.

Present (8) was originally drafted without the last sentence. To make the meaning of that sentence clear it has been set up as a separate paragraph (9).

Both present (9) [recodified as (6)] and present (8) [recodified as (8)] are changed to insure that a person who votes in the District of Columbia shall be ineligible to vote in North Carolina.

§163-58. Literacy.

Source: §163-28

Comment: The expression "Every person presenting himself for registration," while drawn from Art. VI, §4, of the N. C. Constitution, is nevertheless, not especially precise. The new draft attempts to improve this. The last sentence of the present section has been omitted as surplusage. Formerly, the only standard for literacy was the registrar's "satisfaction." When the appeal procedures found in §§163-28.1 through -28.3 were inserted in 1957 the last sentence was substituted for the former test. Since the registrar is required by other statutes to administer all matters concerning the registration of voters this sentence is unnecessary and possibly confusing.

§163-59. Right to participate or vote in party primary.

Source: §163-123

Comment: The first paragraph of the present section has been deleted from the new draft. The remainder of the present section (except the last sentence) has been incorporated in the new draft. The section has been transferred from Article 19, which deals exclusively with Primaries, and placed in this article because it is mainly concerned with *qualifications* to register to vote rather than *procedures* peculiar to primaries.

The first paragraph of the present statute is surplusage in the light of the provisions of new §163-67, thus has been deleted.

The last sentence in the present draft has been combined with present §163-30 and codified as new §163-67(c), thus has been deleted.

The second paragraph of the present section is redundant, thus the new draft becomes much shorter than the original by omitting the surplusage.

The last sentence of the new draft is not to be found in the present law. It is inserted because of the necessity of having a definite date on which such registrations may be accepted in counties with full-time and permanent registration. The 60-day limit proposed here should be evaluated by election officials in affected counties.

ARTICLE 7.

Registration of Voters.

§163-65. Registration books and records.

Source: §§163-43, -43.1, -53

Comment: At the present time Articles 7 and 9 both deal with registration books, equipment, and procedures. (A small part of §163-53 in Article 11 also deals with registration books.) Most of Article 9 was inserted in 1949 to provide for a new state-wide registration and is dated if not obsolete. Nevertheless, it contains important provisions not found elsewhere in the elections law which, if slightly modified, can be incorporated in more appropriate articles. Subsection (a) of the new draft is drawn from §163-43. Subsection (b) is taken from §163-53. Subsection (c) is drawn from §163-43.1.

The provisions of §163-43 preceding the proviso are deleted as being obsolete. The provisions of the second paragraph of that section are deleted for the same reason. They were essentially "one-shot" procedures.

By incorporating the substance of §163-43.1 into this section [Subsection (c)], it is anticipated that much of the confusion between (1) looseleaf registration and (2) full-time and permanent registration can be eliminated. In drafting Subsection (c), the following portion of §163-43.1 has been omitted: "or if the elector cannot read and write and is qualified to register under Article VI, section 4 of the North Carolina Constitution and the acts of the General Assembly made pursuant thereto" [meaning: the Grandfather Clause and §§163-32 through 163-42]. These provisions are admittedly invalid under the United States Constitution and have not been administered in this State in many years.

The portions of §163-43.1 which provide for registration of persons unable to write in permanent registration counties have been transferred to new §163-67, where they are more appropriately placed.

An attempt has been made to clarify the distinction between an *application* to register and a registration *certificate* in permanent registration counties. It is not intended as a change in the law, but the present statutes are unnecessarily muddied as to the distinction.

Similarly, the present provisions making both the precinct copies and the office copies of the registration certificates "official" have been modified to avoid inconsistency.

Subsection (b) has been inserted in this section to insure that all provisions on registration records can be found in a single section.

§163-66. Custody of registration records and poll books; access; obtaining copies.

Source: §§163-49, -115, -115.1

Comment: §§163-115 and 163-115.1 are presently codified in Article 18 which seems to be an unnecessary article. Since the sections deal with registration records they have been merged and transferred to this article where they seem to fit logically. The title of the new section is designed to be comprehensive enough to cover custody and access at all times.

The first paragraph of the new draft is drawn from §163-49 with no substantive changes. The second paragraph is drawn from §163-115. The third sentence of the second paragraph is an addition, but it is not a departure from the present law. The third paragraph is a re-write of §163-115.1 without any intentional change in substance. The fourth paragraph is taken from the last sentence of §163-115. It is placed at the end of the section to make it apply to permanent registration counties as well as others. This supplies an obvious omission.

The substance of §163-49.1 has been inserted in the first sentence of the third paragraph of the new draft.

§163-67. Time and place for registration.

Source: §§163-31, -30, -123

Comment: As presently drafted, §163-31 covers three distinct subjects in three unnumbered paragraphs. The substance of the third paragraph has been transferred from this section to new §163-78. The new draft numbers and gives titles to the paragraphs retained in this section. (The numbered paragraphs are then divided into unnumbered paragraphs to aid the reader.) Subsection (c) in the new draft takes the place of present §163-30 and one sentence in §163-123.

Under (a)—The first sentence is inserted to afford the user a proper introduction into what the section is concerned with. Throughout this section a fixed hour (6:30 p.m.) has been substituted for the imprecise "sunset." The provision concerning the registrar's oath, having been covered in new §163-41 (a), has been deleted as surplusage. Similarly, the provision for furnishing the registrar with a registration book, having been dealt with in new §163-65, has been dropped.

Under (b)—The substance of §163-43.1 has been combined with the second paragraph of present §163-31 to form this subsection. Much of the complicated sentence structure has been simplified. The only intentional change in meaning is to specify that registrars take registration applications and administer registration oaths but do not actually make final decisions on registration. This is done to insure that there is no conflict with present §163-15. The substance of §163-31.1 has been incorporated in the second sentence of subsection (b) of the new draft. The fourth paragraph of subsection (b) is necessarily implied from the existing law but is nowhere spelled out. The last paragraph of the new draft of this subsection incorporates the special rule-making power now found in the second paragraph of §163-31.

Under (c)—Both §163-30 and part of §163-123 deal with the right to register on the day of a primary or election. They are not well-written. The new draft merges the provisions of the two sections and attempts to clarify the issue. The last sentence is based on administrative decisions of the State Board of Elections. See Lewis, *Primary and General Election Law and Procedure—1966*, p. 99.

§163-68. Registration of persons expecting to be absent during registration period.

Source: §163-53

Comment: The second sentence of the present section has been transferred to new §163-65 (b) and is covered in the new draft by a reference to that section. The rest of the section remains essentially unchanged.

The section has been inserted in this article because it is wholly concerned with *registration* of persons who will be absent during the regular registration period rather than with absentee *voting*. Thus, its presence in Article 10,

which deals with absentee *voting*, is misleading.

§163-69. Permanent registration.

Source: §163-31.2

Comment: A few rearrangements have been made in the order in which the section is drafted, but no substantive changes have been made.

It should be noted that in some counties the "four-year" non-voting disqualification does not apply; six years is the period in the following counties under Section 1½, Ch. 1116, Session Laws of 1965:

Alamance	Martin
Columbus	Northampton
Forsyth	Randolph
Franklin	Robeson
Gaston	Rowan
Harnett	Scotland
Hertford	Wake
Johnston	Washington

Since very few of these sixteen counties have adopted full-time and permanent registration, the exception is of interest in only two or three counties.

§163-70. Registrar to certify number registered in precinct.

Source: §163-162

Comment: The first paragraph of this section has been transferred here from §163-162 for purposes of emphasis. The second paragraph was added for practical reasons.

§163-71. Municipal corporations authorized to use county registration records.

Source: §163-31.3

Comment: The section has been slightly rearranged, but no substantive changes have been made.

§163-72. Registration procedure; oath.

Source: §163-29

Comment: The portions of the first and second paragraphs of the present section which deal with removal from one precinct to another in the same "city, town or township" have been consolidated and transferred to the fifth and sixth paragraphs of the new draft.

(1) The requirement that a municipal resident specify the "ward" in which he resides is deleted. (2) The provision for handling transfers of registration when the voter moves from one precinct to another "in the same city, town or township" has been made applicable to transfer from one precinct to another in the same *county*. (This seems substantially more in line with other procedures.) (3) Where the present statute merely requires that the applicant be "sworn" before he is questioned, the new draft prescribes the form for that oath. (4) The present statute requires the registrar to indicate the applicant's "race" on the registration record but does not specify that the registrar is to ask the applicant to state his race. After consideration of the need for registration statistics by race, the present provisions were left unchanged. (5) "Political party affiliation" is added to the items to be stated by the applicant, but only as provided in new §163-74. This is not a major change. (6) The last paragraph of the present section has been shortened without intentional change in substance.

§163-73. Registration and voting of new residents in presidential elections.

Source: §§163-112.2, -112.3

Comment: The new draft combines §§163-112.2 and 163-112.3. (1) It is specified that the applicant need not take the usual registration oath provided in §163-29 because the affidavit required under this section will serve the same purpose. (2) There is a minor correction in the oath form—portion dealing with applicant's age.

§163-74. Record of political party affiliation; changing recorded affiliation; correcting erroneous record.

Source: §§163-46, -50

Comment: The new draft combines portions of §§163-46 and 163-50. It has been divided into three numbered subsections for purposes of clarity—initial record of party affiliation; change in record; correction of error in record.

As to Subsection (a): (1) The first paragraph of present §163-46 was originally written to take care of the 1949-50 state-wide new registration and is now obsolete. Thus, it has not been included in the new draft. The same is true of the last three paragraphs of that section. (2) The oath provided in the new draft for use when a party affiliation is changed on primary day is drawn from that provided in §163-50 as modified by the decision in *Clark v. Meyland*, 261 N. C. 140, 134 S. E. 2d 168 (1964).

As to Subsection (b): (1) The third paragraph of present §163-50 has been deleted at this point and transferred to new Subsection (c), below. (2) The provisions of §163-50, as redrafted in (b), speak of changing the voter's *record* of party affiliation rather than of changing his *party affiliation*; this seems more in line with what is actually being regulated. (3) The oath in the present statute has been modified to conform to the decision in *Clark v. Meyland*. (4) The last paragraph of §163-50, which appears as the last paragraph of Subsection (b) in the new draft, has been simplified.

As to Subsection (c): This is nothing more than the third paragraph of present §163-50 with an appropriate form of oath inserted.

§163-75. Appeal from denial of registration.

Source: §163-28.1

Comment: Under the present law the appellant files his notice of appeal with the registrar *only*. The new draft requires that it be filed with the county board of elections as well as the registrar. Both seem desirable; the notice to the registrar affords him notice that the appeal is being taken; the notice to the board is appropriate because the board is to hear the appeal. [See also comment on new §163-76, below.]

§163-76. Hearing on appeal before county board of elections.

Source: §163-28.2

Comment: (1) The present section requires the registrar to file the notice of appeal with the county board "promptly." The new draft specifies that he must file it with the board "by 5 o'clock p.m. on the day following the day on which he receives it." This is more precise and follows the pattern set in new §163-75. (2) The language of the present section concerning quorum and decision by majority vote has been clarified but not actually altered in meaning.

§163-77. Appeal from county board of elections to superior court.

Source: §163-28.3

Comment: §163-28.2, both as now written and in the new draft, §163-76, refers (in the last sentence) to the county board of elections' "decision" on an appeal, while the present version of §163-28.3 opens with a reference to

the "final order" of the board. This led to a change in the first sentence of the new §163-77 to make it conform to §163-76. Furthermore, if the period for seeking judicial review of the board's decision ends ten days from the date of the "order," it would be possible for the board to delay giving notice of the order and thereby effectively cut the time in which the appellant might consider an appeal. Thus the new draft computes the appeal period from the date on which notice of the decision is received.

§163-78. New registrations; registration when books mutilated or destroyed; revisions of registration books.

Source: §§163-23, -31

Comment: At present, §163-23 deals with both new registrations and purging of books in a confused mixture. The new draft separates the two procedures. Subsection (a) of the new draft is drawn from the first nine or ten lines of §163-23. Two clarifying references have been inserted—one specifies that §163-31 (a) [now §163-67 (a)] governs the time periods for new registrations; the other specifies what is meant by the confusing statement that "when a new registration or revision is ordered . . . the names of all persons who have been registered under the absentee voters' law shall remain upon the registration books unless the said persons so registered have died or otherwise become disqualified electors." It is also made clear that this applies only to those persons registered by the chairman of the county board of elections since the preceding primary or election. This is not, however, a change in the intent of the present law.

Subsection (b) is drawn from the last paragraph of present §163-31. It is apparent that the present provision was drawn to meet a special set of facts. With minor modifications (of a nonsubstantive nature) that procedure is retained as the first paragraph of the new draft of Subsection (b). The remainder of Subsection (b) is entirely new. It is intended to provide a procedure in the event registration records become unusable less than thirty days before a primary or election. The affidavit forms set out in the draft are patterned after the oath required of all persons at the time they register to vote. See §163-72.

Subsection (c) of the new draft is drawn from the portion of present §163-23 following the first ten lines. No substantive changes have been made.

ARTICLE 8.

Challenges.

§163-84. Right to challenge; to whom challenge made.

Source: §§163-78, -25(10), -79.1

Comment: This section is made up of portions of three other sections. The first sentence is based on the first sentence of §163-78 and on §163-25(10); the proviso attached to that sentence is based on the first sentence of §163-79.1.

The words "including the precinct registrar and judges of election" have been inserted to negative an opinion expressed by the Attorney General in a letter to Clyde C. Randolph, Jr., November 4, 1960, which is felt to be unnecessarily restrictive.

The sentence following the proviso is drawn to cover the substance of last sentence in §163-79.1.

§163-85. Special times for challenge; challenge procedure; notice of hearing.

Source: §§163-78, -79.1

Comment: The registrar is required to note the challenge *in pencil* on the registration records so that it may be erased with ease if required under new §163-86.

In line with present regulations of the State Board of Elections, the new draft specifies that the notice of hearing set out the grounds alleged for the challenge, and it also requires that a copy be given the challenger. This is to insure that he knows when the hearing is to be held so that he may appear and support his challenge.

The references to township in §163-78 have been deleted as being inconsistent with other provisions of the election laws.

The new draft removes the implication of the present law that the county board of elections in a permanent registration county can set its own "reasonable" hours for inspection of registration records. The new draft conforms to G. S. 132-6 governing all public records.

§163-86. Hearing on challenge made prior to primary or election day.

Source: §163-79

Comment: The title of the section specifies that it applies only to challenges entered before primary or election day. [New §163-88 covers hearings on challenges made on the day of a primary or election.]

The first paragraph is drawn from portions of §163-78 and §163-79.1. Note especially the fact that in counties with full-time and permanent registration challenges are decided by precinct officials if made on election day; otherwise, in such counties they are decided by the county board of elections. This is the present law under §163-79.1.

The oath to be administered before examining the challenged registrant as to his qualifications is drawn from and is substantially equivalent to that inserted in the new draft of §163-72. The form of oath to be tendered the challenged registrant has been slightly modified so that it may be used in all counties, whether or not they have full-time and permanent registration.

The present statute is not clear as to whether the word "sworn" is to be entered on the registration and poll record when a challenge is overruled before the day of an election or primary. In the new draft of this section this is not required; however, it is required in new §163-88, which deals with challenge procedure on the day of a primary or election.

The provision concerning use of the testimony of another voter has been transferred to new §163-88, as being more appropriate on the day of a primary or election.

§163-87. Challenges allowed on day of primary or election.

Source: §§163-182, -126

Comment: This section is designed to take the place of random provisions now found in §§163-182 and 163-126 which, in the interests of orderly arrangement, belong in this article.

The first paragraph of the new draft is drawn from the proviso at the end of the first paragraph of §163-182. It is made applicable to all counties, whether or not they have full-time and permanent registration. Despite the provisions of the last paragraph of §163-182 this seems to have been the true and logical meaning of the statute; there is no reason to deprive voters in any county of this right.

The second paragraph of the new draft is drawn from §163-126, a portion the Primary Law. Although this has been in the statutes for a long time, it is extremely difficult to administer, and in actual practice very little attempt is made to use it. It is possible that it should be deleted as obsolete in view of

the attitude expressed by the North Carolina Supreme Court in *Clark v. Meyland*, 261 N. C. 140, 134 S. E. 2d 168 (1964).

§163-88. Hearing on challenge made on day of primary or election.

Source: §163-79

Comment: As indicated in the Comment under §163-86, in the new draft the provisions of §163-79 have been split between two sections—one covering challenges made before election day and one covering challenges made on the day of a primary or election. In doing this it has been necessary to evaluate the present section to determine which of its provisions apply most appropriately to each challenge period. The provision for using the testimony of another voter is restricted to a hearing on a challenge made on primary or election day. Similarly, the oath form is appropriately modified. An attempt has also been made to deal with poll book records.

§163-89. Procedure for challenging absentee ballot and presidential ballot of new resident voter; right to appeal.

Source: §§163-62, -61, -112.4

Comment: Under a new title reflecting its broadened coverage, this new draft combines present §163-62 and those portions of §163-112.4 which refer to §163-62 for implementation.

The section is placed in the article dealing with Challenges to insure that all portions of the election laws in that field are grouped in a single article.

Examination of §163-112.4 indicates that the legislature intended to make the provisions for challenging the presidential ballots of new residents identical with the provisions of §163-62. This seems to be ample reason to merge the two sections. Nevertheless, in doing so an inconsistency becomes plain:

In §163-61, when an absentee ballot is to be counted, the following procedures are specified:

1. The name of the absent voter as it appears on the affidavit on the container envelope is called out by one of the judges.
2. If found to be registered and qualified in the precinct, and *if not challenged*, the voter's name is recorded in the poll book as an absent voter with the notation "Absent Voter."
3. A judge then opens the envelope and removes the ballot and deposits it in the appropriate box. Then the section continues as follows:

[P]rovided, however, that if the affidavit and jurat are not in due form, or the voter did not sign his name on the affidavit on the envelope, or the officer's seal is not affixed, said ballot shall not be deposited in the ballot box, nor counted, but returned to its envelope and marked "Rejected."

The question arises, since the affidavit, the place for the signature, the jurat, and the officer's seal must all appear on the *outside* of the envelope and *not* on the ballot, why should the envelope be opened and ballots removed before these matters are decided? The issue becomes even more obvious when the absentee ballot is challenged:

If an absent voter's ballot is challenged and the challenge is sustained, the ballot shall be *returned to its envelope* and marked "Challenge Sustained" and returned as provided for the return of rejected ballots.

The words italicized here are inconsistent with those italicized above. Keeping in mind that the legislature intended to make the provisions for handling the presidential ballots of new resident voters identical with those for absentees, consider the following portion of §163-112.4:

... if the challenge is sustained, the envelope containing the ballot *shall not be*

opened, but shall be returned as provided for the returning of rejected absentee ballots. . . .

The 1965 Legislature assumed that questioned and challenged absentee ballots remained in unopened container envelopes until a decision had been made as to their validity. If rejected, or if the challenge was sustained, the 1965 Legislature assumed that the envelope would remain sealed.

Thus, the new draft adopts this interpretation of the governing legislative intent and blends §163-112.4 into §163-62.

The provision concerning the authority of precinct officials to administer oaths in challenge hearings is adopted from §163-79.

The provision for retention of ballots after the election is taken from §163-61.

The last paragraph of the section has been inserted as a precautionary measure.

§163-90. Challenge as felon; answer not to be used on prosecution.

Source: §163-80

Comment: The only changes in the new draft are in terminology: "registered voter" instead of "person," use of plural "answers" rather than "answer," and change of one "such" to "the."

SUBCHAPTER IV.

POLITICAL PARTIES

ARTICLE 9.

Political Party Definition.

§163-96. Political party defined; creation of new party.

Source: §163-1

Comment: The two definitions of a political party have been left unchanged. The second definition has been shortened by removing from the definition proper the procedural details concerning the required petitions. Those details have been rearranged, rephrased, and placed in a separate subsection. The alternative procedures for verifying signatures on petitions have been spelled out in greater detail. Provisions have been inserted (1) to require the chairman of the county board of elections to return checked petitions to the individuals who presented them to him, (2) to emphasize that the petitioners are responsible for seeing that the checked petitions are delivered to the State Board of Elections, and (3) to require the State Board of Elections to make its decision on the validity of the petitions quickly and to communicate its decision at once to the person designated as head of the proposed party. This is not new law.

§163-97. Termination of status as political party.

Source: §§163-1, -144

Comment: This is a new section based on portions of §163-1 and §163-144. The limiting application of §163-144 to primaries has been changed to cover all types of elections.

The meaning of the section is not changed. As now drafted, the new section will take the place of §163-144, and that section can be dropped. The proviso at the end of present §163-1, no longer having any validity, has been dropped as surplusage.

§163-98. General election participation by new political party.

Source: §163-1

Comment: The new draft attempts to fill out and clarify the scanty details now found in §163-1. As presently written, the relevant sentences in §163-1 contain important restrictions on the rights of a new political party and might not be seen on a casual reading of the section. In addition, the reference to a nominating convention is too casual; thus, the new draft is not intended to impose restrictions but to make clear those which already apply.

SUBCHAPTER V.

NOMINATION OF CANDIDATES

ARTICLE 10.

Primary Elections.

§163-104. Primaries governed by general election laws; authority of State Board of Elections to modify time schedule.

Source: §§163-118, -142, -146

Comment: The last sentence of the first paragraph of the new draft has been transferred to this section from §163-142. By so doing, §163-142 can be deleted. The new draft takes into account the possibility that provisions concerning primaries may now be found throughout Chapter 163, not merely in this article. Otherwise, there is no material change.

This section as now drafted makes §163-146 unnecessary, thus it can be dropped.

§163-105. Payment of expense of conducting primary elections.

Source: §163-122

Comment: The possibility that county board members and precinct officials may be paid salaries rather than per diem has been taken into account. Specific statutory references have been inserted in lieu of general references.

§163-106. Notices of candidacy; pledge; with whom filed; date for filing withdrawal.

Source: §§163-119, -130, -147

Comment: In Subsection (a) have been put all provisions concerned with the notice itself and its execution. In Subsection (b) have been placed the three separate provisions dealing with disqualification to file and the provision which permits an unregistered person to file. In Subsection (c) are placed the provisions as to time and place for filing according to the office sought. Subsection (e) is drawn from §163-121, but has been broadened to cover those who file in counties as well as at the State level. There is no intentional change in the meaning of this section, other than to insert district judges in the list of offices for which an aspirant must file with the State Board of Elections. This follows the views of the Attorney General as expressed in a letter to Marion B. Person, November 17, 1965.

The bracketed portion of the notice [together with the provision to be used in lieu of the bracketed language in compliance with the provisions of Subsection (b)] is not now in the statute, but the State Board of Elections provides for its use by regulation. See Lewis, *Primary and General Election Law and Procedure—1966*, p. 44.

The first sentence in Subsection (a) is taken from §163-129.

The last sentence of Subsection (a) is drawn from §163-130.

Subsection (d) is nothing more than a slight revision of present §163-147.

It is placed in this section to help insure that it will not be overlooked.

§163-107. Filing fees required of candidates in primary; refunds.

Source: §§163-120, -121

Comment: The new draft incorporates both §§163-120 and 163-121. This is done in order to consolidate all sections dealing with filing fees. Two numbered and titled subsections reflect the substance of the two separate sections in the present law.

The provisions of Subsection (a) are intended to retain the provisions of present §163-120.

Subsection (b) is a revision of §163-121. One substantive change has been made: Provision has been made for refund of filing fees paid to county boards of elections as well as to the State Board. This seems to have been an oversight in the present law. If properly applied for, the refund is made mandatory.

§163-108. Certification of notices of candidacy.

Source: §§163-124, -132

Comment: The new draft is designed to deal with portions of present §§163-124 and 163-132. It is divided into four numbered paragraphs to call attention to the different procedures to be followed by the State and county boards of elections. See new §163-109.

§163-124 and §163-132 are both awkwardly phrased, and §163-124 is filled with "such" and similar legalisms. The draft attempts to eliminate those words and to simplify the sentences.

The draft contains two clear-cut changes in substance:

In Subsection (c) it requires county election board chairmen in multi-county representative and senatorial districts to certify filers to the State Board of Elections rather than to the other elections boards in the district; it then requires the State Board to certify names submitted to it to the appropriate county boards.

In Subsection (b) the position of district court judge has been inserted to make the section conform with new §163-106 (c).

Subsection (d) is drawn from §163-132. It has been extended to cover receipt of certifications under Subsection (c) as well as certifications under Subsection (b).

§163-109. Primary ballots; printing and distribution.

Source: §§163-132, -124, -125, -128, -129, -130, -135

Comment: Although drafted as a revision of §163-132, the new section incorporates not only substantially all of that section, but also significant portions of §163-124 and, to a lesser extent, §§163-125, 163-128, 163-129, 163-130 and 163-135.

The last paragraph of present §163-132 is not covered in the new draft because it has been transferred to new §163-108. The first fourteen lines of present §163-124 appear in the new draft for §163-108.

Present §163-125 has been so completely incorporated in the new draft that it can be eliminated.

The first sentence of present §163-128 is completely incorporated in the new draft.

Present §163-129 may be dropped in view of the provisions of the new draft of this section.

Present §163-130 may now be dropped. The first portion of the section has been incorporated in new §163-106. The remainder has been covered by this section.

District court judge has been inserted in the lists in both Subsections (b) and (c). In Subsection (b) has been inserted a requirement that the county board receipt for ballots sent to it by the State Board. A reference to §163-140 (c) has been inserted to insure that the requirements of that section concerning primary ballots are not overlooked. A reciprocal reference to this section has been inserted in the text of that section. The provisions of present §163-124 and §163-135 dealing with the expense of primary elections have been dropped from the new draft because they are covered by new §163-105.

§163-110. Sole candidate declared nominee.

Source: §§163-134, -128

Comment: The new draft places all provisions on this subject in a single section.

§163-111. Determination of primary results; second primaries.

Source: §163-140

Comment: The title of the section has been modified, and the text has been divided into six numbered subsections. Within subsections (a) through (d) there are numbered paragraphs. These changes in form are designed to bring order into what is at present a very disorganized section.

Very few substantive changes have been made. They are noted in the following description:

(1) Subsection (a) is drawn from the first paragraph of the present section, from the last sentence of the third paragraph of the present section, and from the first three sentences of the fourth paragraph of the present section. The introductory sentences in the new draft are more accurate than the first sentence of the present statute; they recognize that nominations are not always determined by a majority vote. Both paragraphs 1 and 2 in the new draft contain statements requiring certain aspirants to be declared the nominees. The present section implies this but does not make the affirmative statement. The last sentence in paragraph 2 is drawn from the third sentence of the fourth paragraph of the present section, but the provision in parenthesis has been added for purposes of precision.

(2) Subsection (b) opens with a new introductory clause. Paragraph 1 in the subsection is drawn from the portion of the second paragraph of the present statute preceding the second proviso. It has been completely recast; the present provision *seems* to require a second primary unless one of the candidates requests that it *not* be held; the new draft follows the line of reasoning found in the portion of the second paragraph beginning with the second proviso. Paragraph 2 in the subsection is drawn from the fourth and fifth sentences in the fourth paragraph of the present statute. The present language is confusing with respect to a situation in which there are group offices to be filled and only one is filled by nomination in the first primary, leaving others unfilled. The new draft attempts to cover this.

(3) Subsection (c) is drawn from the portion of paragraph two of the present statute beginning with the second proviso. The lists of offices in both paragraphs 1 and 2 have been expanded for purposes of clarity. A significant change has been made in the text. The present statute states that the request for a second primary must be filed—in one instance—“by twelve o'clock noon on the fifth day after the result of the first primary election shall have been officially declared, *and such aspirant has been notified by the chairman or secretary of the appropriate county board of elections*” and—in another instance—“by twelve o'clock noon on the third day after the result of the first primary election shall have been officially declared, *and such aspirant has*

been notified by the chairman or secretary of the State Board of Election." The new draft omits the italicized requirements. This is done for the reason that no independent provision of the existing statute (and none in the new draft) requires that notice of the result be communicated to the candidate. Except for these provisions, he is expected to keep himself informed of the official result at the time it is declared by the appropriate board of elections.

(4) Subsection (d) is drawn from the fifth, sixth, and seventh paragraphs of the present section. Principal changes: The expression "tie vote between two candidates" has been changed to read "tie for the highest number of votes between two candidates." In paragraphs 1 and 2 additional provisions concerning the State Senate have been inserted for purposes of clarity. In paragraph 2 the sentence, "Should that be done . . ." has been inserted.

(5) Subsection (e) is based on the first sentence of the third paragraph of the present draft. It has been rearranged for clarity but without any change in substance.

(6) Subsection (f) is drawn from the last sentence of the fourth paragraph of the present statute and from the last sentence of the fifth paragraph of the present statute. They are combined and placed here to avoid confusion and to keep them from being lost.

§163-112. Death of candidate before primary; filling vacancy.

Source: §163-145.1

Comment: The title of the section has been modified slightly. The lettered paragraphing has been dropped in the interests of clarity. As presently set up there is some risk that the user will not see that the two paragraphs should always be read *as a unit*.

§163-113. Nominee's right to withdraw as candidate.

Source: §163-154

Comment: (1) The location of the present section in Article 20 tends to mislead. By placing it in this article—dealing with nominations, etc.—it seems less likely to be lost and less likely to be misread to refer to §163-153.

(2) The language of the present section does not deal realistically with the election machinery of this state. For example, the expression "the proper officer" has no meaning in North Carolina. Our equivalent is "the appropriate board of elections."

(3) The rewritten section is designed to make plain what seems to have been intended, i.e., it has been rewritten without any intentional change in practical meaning and application.

§163-114. Filling vacancies among party nominees occurring after nomination and before election.

Source: §163-145

Comment: This section has been divided into two separate sections in the recodification. Only the first paragraph is drawn on for new §163-114; the last two paragraphs are carried over into new §163-115.

The title of the section has been made more specific in the new draft, and a tabular listing has been adopted in place of the present listing in the text.

Two offices have been added to the list: "judge of district court" and "any elective township office." The word "convention" has been inserted near the opening of the draft. Note the limitation on the power of a county executive committee to fill a vacancy. The present statute reads as follows: "Provided that except in case of the death of a candidate who is required by law to file his notice of candidacy with a county board of elections, no substitution

of candidate may be made after the primary or convention except by order of the county board of elections for good cause shown." The new draft states that the county executive committee is to fill vacancies in nominations for a specified list of positions and adds, "but if the vacancy arises from a cause other than death, the vacancy shall not be filled unless the board of elections in the county in which the vacancy occurs issues an order to that effect." This has the effect of drawing a distinction between vacancies in multi-county and single-county representative districts.

The sentence immediately following the tabular material in the new draft has been transferred to this section from §163-153 because it fits better at this point. The last sentence in the section has been drafted in terms of when the new nomination is made rather than in terms of when the vacancy occurs. This seems to be a more practical approach.

§163-115. Special provisions for obtaining nominations when vacancies occur in certain offices.

Source: §163-145

Comment: This is a new section composed of the substance of the last two paragraphs of present §163-145. For purposes of clarity, the substance of the last paragraph has been placed first in the new draft, and the substance of proviso at the end of the preceding paragraph has been placed in a separate paragraph. Thus, having dealt with the exceptional situations, the rest of the section is set out.

The provision of the present statute for vacancies occurring before ten days before the filing period ends has been dropped from the new draft as surplusage.

§163-116. Agreements for rotation of candidates in senatorial districts of more than one county.

Source: §163-113

Comment: No change is proposed in the text of this section, but, for sake of logical organization it has been transferred to this article from Article 18—which is being eliminated as a separate article.

ARTICLE 11.

Nomination by Petition.

§163-122. Independent candidates nominated by petition.

Source: §163-152

Comment: The title of the section has been changed to emphasize the "nomination" rather than the "ballot" concept. The text has been broken into several paragraphs, and material now contained in provisos has been incorporated into the text.

"Last Saturday in May preceding the general election" has been substituted for "the time prescribed by law for the nomination of candidates by the political parties."

(1) The section has been transferred to this subchapter because it deals with a method by which one may become a candidate, thus it fits logically here. Note that the titles to the subchapter and article reflect this broadening.

(2) The last sentence in the present section applies to municipalities which have political party primaries. These are few in number, and if such a provision is needed, it would more appropriately be inserted in Chapter 160 of the General Statutes. It has been dropped here as confusing and inappropriate.

(3) The expression "at least twenty-five per cent of those entitled to vote for a candidate for such office according to the vote cast in the last gubernatorial election in the political subdivision in which such candidate may be voted for" is awkward and not entirely clear—especially the word "entitled" and what it suggests—thus an effort has been made to re-cast the entire section without losing its essence.

(4) It should be noted that the section does not require that the appropriate elections board verify the statements in the candidate's affidavit.

SUBCHAPTER VI.

CONDUCT OF PRIMARIES AND ELECTIONS

ARTICLE 12.

Precincts and Voting Places.

§163-128. Election precincts and voting places established or altered.

Source: §163-22

Comment: The section title has been amended to insert "voting places" to reflect the fact that they are dealt with in the section. The section has been divided into two paragraphs for the sake of clarity. Since this section is the only section in the election laws which deals with establishment of precincts and voting places, it has been transferred to this article from Art. 5 (which deals wholly with precinct officials).

The singular "county board of elections" is used in place of the plural; this makes for easier reading. The expression "voting place" has been used instead of "polling place"—this is part of a general attempt to standardize the expressions used to describe the place at which voting takes place.

1. The first sentence does not appear in the present statute, but experience suggests that it is much needed.

2. The second sentence requires one voting place per precinct rather than one per township as is now required by law. This will avoid problems that might arise in the election of township officers.

3. The requirement that the county board act by resolution merely specifies what is implicit in the present law.

4. The two notice provisions in the present statute have been combined into one for the sake of brevity and clarity.

§163-129. Structure at voting place; marking off limits of voting place.

Source: §§163-163, -165

Comment: The word "public" has been dropped in favor of "state, county, or municipal" as a modifier of the kind of building the county board of elections may requisition for election purposes. This is not a substantive change.

(1) The last paragraph of the new draft is taken from §163-165 and placed here because it applies to the entire voting place, not merely to the voting enclosure as that term is defined in new §163-146.

(2) A positive requirement that the voting place be located at a "structure" has been inserted.

(3) Specific provision is made for use of and requisition of less than an entire structure.

(4) A positive requirement that the county board inspect each voting place has been inserted.

(5) The highly confusing provision of the present section concerning roping

off the voting place has been redrafted to reflect what seems to have been the governing intention of the legislature.

(6) The possibility that voting machines may be used has been covered.

ARTICLE 13.

General Instructions.

§163-135. Applicability of article.

Source: §§163-148, -180, -81, -150, -187

Comment: The title of the section has been revised to reflect its broader scope. Various other sections have been brought into this section, thus separate paragraphs (with titles) have been used.

The section has been expanded by collecting in one place the substance of several relevant sections. (a) Contains the substance of present §163-148. (b) Covers part of present §163-180. (c) Contains the substance of present §163-81. (d) Covers part of present §163-150. (e) Contains the substance of present §163-187.

§163-136. Preparation, distribution, and financing of ballots.

Source: §§163-149, -151, -64

Comment: The title of the section has been expanded to include the word "financing" to signal an important portion of its contents. Two numbered listings have been substituted for the present unparagraphed text.

The word "referenda" has been used to cover elections in which voters are asked to express their opinions on issues.

A portion of §163-151 has been incorporated (in substance) into this section. Although generally rewritten, the new text is not designed to change the substance of the present law.

§163-137. General and special election ballots; names and questions to be printed thereon; distribution.

Source: §163-151

Comment: The title of the new section refers to general and special election ballots, specifically omitting primary ballots, a subject already covered by new §163-109. The section has been divided into two lettered subsections to accentuate the fact that two different subjects are treated in the section—ballot contents and ballot printing and distribution.

Only one substantive change has been made: Since absentee ballots may be applied for as many as 45 days before an election, under the provisions of §163-55, the new draft requires that ballots be made available by that date if absentee voting is permitted.

§163-138. Instructions for printing names on primary and election ballots.

Source: §163-151

Comment: This portion of §163-151 has been set up as a separate section to insure that its contents can be easily found. An appropriate title has been assigned the new section.

Specific references to the statutes concerning notices of candidacy and nomination by petition have been inserted to assist a person not familiar with the election laws. The illustrative references to "doctor, reverend, judge" etc. have been deleted as unnecessary.

§163-139. Reprinting ballots when substitute candidate is named.

Source: §163-153

Comment: The section has been divided into titled and lettered subsections to emphasize the fact that different procedures are to be employed when there

is a vacancy in a candidacy before primaries and elections.

The present text is obscurely written; the draft attempts to clarify it. The new draft (unlike the present law) states explicitly that the section applies to special as well as general elections.

The following provision of the present section has been transferred to new §163-114 where it logically fits: “. . . but the name of such [substitute] candidate so nominated shall be certified by the party executive committee making the nomination to the chairman of the board of elections charged with the duty of printing such ballots. . . .”

§163-140. Kinds of ballots; what they shall contain; arrangement.

Source: §§163-155, -150

Comment: The section has been divided to clarify its coverage into four subsections: (a) Kinds of general election ballots; right to combine

(b) General election ballots

(c) Primary election ballots

(d) Municipal primary and election ballots.

In this way it has been possible to eliminate doubt as to whether all elections (general and primary) are touched by all provisions of the section.

The requirement that general election ballots be printed to permit write-ins conforms to §163-175(5) and to the 1964 Instructions of the State Board of Elections.

(1) The authority given the State Board of Elections to combine the *presidential* ballot with others has been specifically deleted. The present authority is not exercised, would cause confusion if done, and the instructions on the subject in the present section merely confuse the reader.

(2) The first of the voting instructions for the *presidential* ballot has been modified to reflect the fact that the voter does not vote a “straight ticket” when he marks this ballot. Necessarily he makes only one mark—and that indicates a vote for electors, not *presidential* and *vice-presidential* candidates—and, in the revised draft, the misleading reference to straight ticket around the voting circle has been removed.

The instructions for the *ballot for United States Senator* have been made a subdivision in the subsection dealing with all general election ballots, and the subdivision has been given an identifying title.

It should be kept in mind that ordinarily only one U. S. Senate place is to be voted on.

(1) When the U. S. Senate ballot is not combined with another, no provision is made for “straight ticket” voting because only one vote is to be cast. And the instructions have been modified to reflect that fact. When that ballot is combined, however, provision is made for straight ticket voting—by requiring a party circle and by providing an instruction on the subject.

(2) The wording of the instructions on the U. S. Senate ballot have been simplified without changing their meaning.

(3) The long provision in the present section dealing with arrangement of party columns on the U. S. Senate ballot by the appropriate board of elections has been taken care of in more direct language.

The instructions for the *ballot for member of the United States House of Representatives* have been made a subdivision in the subsection dealing with all general election ballots, and the subdivision has been given an identifying title.

It should be kept in mind that there is a separate ballot in each Congressional district and that all candidates listed on it will be seeking a single office.

(1) When this ballot is not combined with another, no provision is made for "straight ticket" voting because only one vote is to be cast. And the instructions have been modified to reflect that fact. When the ballot is combined, however, provision is made for straight ticket voting—by requiring a party circle and an instruction on the subject.

(2) The wording of the instructions on the Congressional ballot has been simplified in line with those provided for the ballot for United States Senator.

(3) The long provision in the present section dealing with arrangement of party columns on the congressional ballot by the appropriate elections board has been taken care of in more direct language.

The instructions for the *State ballot* have been made a subdivision in the subsection dealing with all general election ballots, and the subdivision has been given an identifying title.

It should be kept in mind that this ballot will ordinarily carry the names of a number of candidates seeking a number of different offices.

(1) The following portion of the present section is not as simple as might be desired:

If two or more candidates are nominated for the same office for different terms the term for which each is nominated shall be printed as a part of the title for the office.

The new draft uses the following sentence to express this idea:

If candidates are to be chosen for different terms to the same office, the term in each instance shall be printed as part of the title of the office.

(2) The instructions to be printed on the State ballot have been modified—especially the third one—but with an eye to simplification rather than substantive change.

(3) The substance of the last sentence of the present subsection has been incorporated in Subsection (a) of the new draft.

The instructions for the *county ballot* have been made a subdivision in the subsection dealing with all general election ballots, and the subdivision has been given an identifying title.

The present section is not specific in reference to the county ballot; it merely refers to the form for the State ballot and requires substantial conformity. Since this ballot must be designed and printed by the county board of elections it seems highly desirable to spell out the design requirements in detail rather than rely on each local board to apply the State ballot instructions. Thus, the new draft adapts the requirements of the preceding subdivision (4) for county ballot purposes.

The instructions for the *ballot for constitutional amendments and other propositions* submitted to the people have been made a subdivision in the subsection dealing with all general election ballots, and the subdivision has been given an identifying title.

The word "referendum" has been used as a convenient accurate term to cover all such elections.

(1) The portion of §163-150 specifying the form of a referendum ballot logically falls in this section rather than where it presently appears. But the language of that section should be compared with the following language in present §163-155(7):

On the official ballot on constitutional amendments or other propositions submitted shall be printed each amendment or proposition submitted in the form laid down by the legislature . . . submitting such amendment or proposition.

There is a conflict here. The provision in §163-150 is a direction to the legislature; the language of §163-155(7) is a direction to the elections board responsible for framing the ballot. Since the legislature is free to change the form as it deems advisable, the instruction in §163-150 is surplusage and has been deleted entirely.

(2) The role of the Attorney General has been limited to advising on statewide referendum ballots as seems to have been the legislative intent.

(3) Since the instructions to be printed on the referendum ballot may vary with the way the issues are framed, only the standard instruction for getting an extra ballot has been included in the draft.

(4) A requirement that the signature of the chairman of the responsible elections board be appended to the referendum ballot has been inserted.

The *primary ballot* has been accorded a separate subsection so as to avoid confusion, especially with regard to the kinds of ballots to be used.

In new §163-109 in Article 10 (dealing wholly with the primary) are codified most of the requirements peculiar to primary ballots. The provisions of subsection (c) are in reality a supplement to those requirements. Thus, to avoid duplication, a reference to that section has been inserted here.

The *municipal ballot* has been accorded a separate titled subsection to insure that its provisions are not lost or confused with other requirements of this section.

The new draft serves to cover the provisions of the present subsection plus the portion of Subsection (6) of §163-155, which refers to municipal elections.

§163-141. Sample ballots.

Source: §163-159

Comment: The section has been inserted at this point because logically it should follow immediately upon the instructions for preparing the official ballots. The text has been divided into two paragraphs but otherwise there is no alteration in form.

The present section states that sample ballots are "for the purpose of instructing voters in marking their ballots," while the new draft states the implied limitation as well: "Sample ballots shall be used for instructional purposes and shall not be used as official ballots."

The present section states that sample ballots must be printed "on colored paper," but in view of the fact that new §163-140(c)(2) requires primary ballots to be on colored paper, the following more accurate statement appears in the new draft: "Sample ballots shall be printed on paper of a color different from that used for the official ballots. . . ."

§163-142. Number of ballots to be furnished each voting place; packaging; date of delivery; receipt for ballots; accounting for ballots.

Source: §§163-157, -156, -160, -171

Comment: The new draft combines §§163-156, -157, and portions of -160 and -171 into a single section of four paragraphs, with a section heading designed to reflect the broadened coverage.

Certain implications in the present law have been made explicit in the new draft: (1) The section applies to primaries as well as general elections. (2) Each kind of ballot is to be wrapped separately for each precinct. (3) The name of the kind of ballot is to be marked on the outside of each package as well as the number. (4) The registrar is to give his receipt for ballots immediately upon their delivery, and he is to receipt on the basis of the figures marked on the packages—he is not required to count them.

The possibility that the use of voting machines may make this section unnecessary has been taken care of in the last paragraph of the draft.

§163-143. Ballot boxes to be furnished each voting place; date of delivery; receipt for boxes.

Source: §§163-158, -84.2, -160

Comment: (1) The inconsistent labels prescribed for the various ballot boxes have been dropped in favor of a stipulation that boxes must be adequately identified. (2) The sentence containing a reference to new §163-171 incorporates a portion of §163-84.2 because it fits here better than in that new section. (3) An immediate receipt for ballot boxes is required of the registrar upon their delivery. (4) Distribution and receipt provisions here are drawn from the provisions of present §163-160. (5) The provision concerning the opening in the ballot box has been changed to delete the word "folded" to conform to the Commission's decision to delete from §163-166 obsolete instructions for folding all ballots. The possibility that use of voting machines may make this section unnecessary has been covered.

§163-144. Lost, destroyed, damaged, and stolen ballots; replacement; report.

Source: §163-161

Comment: The word "chapter" has been used in place of "article" to insure that the section is understood to apply to all elections.

The present section §163-161 refers to "destroyed or stolen" ballots, but by implication these words include "lost and damaged" ballots, thus the new draft makes that coverage explicit.

§163-145. Voting booths; description; provision.

Source: §163-163

Comment: The new draft covers, without substantial change, relevant portions of the present section §163-163.

Other portions of §163-163 are incorporated in the drafts of new §§163-129 and 163-146.

§163-146. Voting enclosure at voting place; furnishings; arrangement.

Source: §§163-163, -165

Comment: The section is new, and since it deals with a number of procedural details, it has been divided into short paragraphs, and a numbered listing has been employed. The diagram found in one of the source sections has been deleted.

The distinction between "the voting place" and the "voting enclosure" has been carefully delineated.

The section opens with a sentence making it clear that at or within the "voting place" there is to be laid off or enclosed a "voting enclosure." This is essential in order to make procedures already in the elections law workable. The ten-foot measurement is taken from §163-165; the opening width of three feet is taken from §163-163. The point from which the limits of the voting enclosure are to be measured has been established as the ballot box (as under the present law) or the voting machines (to take into account their increased use). The list of furnishings to be placed in the voting enclosure is based on the implications to be drawn from the diagram in §163-165. The last paragraph of the new draft recognizes that voting machines may be used and is based on Voting Machine Rule V adopted by the State Board of Elections, the pertinent provisions of which read as follows:

At all elections where voting machines may be used, the arrangement of the polling place shall be the same as is now provided by law, except no voting

booths or ballot boxes shall be used. The exterior of the voting machines and every part of the polling room shall be in plain view of the election officers. The machines shall be so placed that the ballot labels on the face of the machines can be plainly seen by the election officers and the party challengers and observers when not in use by voters. The election officers shall not themselves be, or permit any other person to be, in any position that will permit one to see or ascertain how a voter votes, except when the voter requests assistance. . . .

§163-147. No loitering or electioneering allowed within fifty feet of voting place.

Source: §163-165

Comment: This portion of §163-165 has been set up as a separate section because it does not fit into other sections in the article. The title has been modified to reflect the reduced coverage.

§163-148. Procedures at voting place before polls are opened.

Source: §163-164

Comment: (1) All provisions concerning administration of the oath to the registrar have been deleted from the source section because they are superseded by new §163-41 in Art. 5. Similarly, the form and instructions for administering the oath to judges, assistants, and markers have been taken care of by a reference.

(2) The detailed instructions concerning equipment and arrangements have already been covered by new §163-146; a reference to that section replaces the provisions of the present section on the subject.

(3) The last paragraph of the new draft incorporates the substance of the following portion of Voting Machine Rule VII of the State Board of Elections: Just preceding the time for the polls to open, the registrar and judges shall open the voting machines and examine the ballot labels and counters to see if it is set at 000, and shall allow any watchers or any electors to examine the same before the voting begins. If found to be correct and in proper form, the counter shall be locked and sealed and remain that way until the polls close.

§163-149. Protection of ballots, ballot boxes, poll books, and registration records on day of primary or election.

Source: §§163-164, -168, -169, -171

Comment: The new section is based primarily on portions of §163-164. However, portions of §§163-168, -169, and -171 seem to fit with some logic into this section.

Poll book and registration records have been included in the list of items that must not be removed from the voting enclosure while the polls are opened.

§163-150. Voting procedures.

Source: §§163-166, -168, -169, -171, -21, -126, -126.1, -83

Comment: The new draft of this section takes the place of three sections of the present chapter—§§163-166, -168, and -169. The combined section carries a new title, and has been divided into six lettered and titled subsections.

As far as practicable, separate provisions regarding voting procedures in primaries have been incorporated into this section so that one section will serve for both the primary and general elections.

(1) The new draft covers all of present §163-166 except the requirements for folding ballots which the Commission has deleted as obsolete.

(2) The new draft covers all of present §163-168, except the sentence forbidding the deposit of unofficial ballots, a matter which is already dealt with in new §163-149.

(3) With regard to the poll book and its maintenance, the new draft covers

the provisions on that subject found in the following portions of the present law:

§163-21(5)—under general duties of precinct officials.

§163-126 (second paragraph)—poll book at primary.

§163-126.1—poll book not required if full-time and permanent registration adopted.

§163-61—absentee voters' names to be entered in poll book as soon as polls are closed.

The requirement that the registrar (or appointed judge) deliver the poll book to the chairman of the county board of elections at the time of the county canvass conforms to new §163-173 in Art. 15.

(4) All of the first paragraph of present §163-126 which has not already been incorporated in new §163-87 in Art. 8 is covered in this draft.

(5) That portion of the third paragraph of present §163-126 which has not already been incorporated in new §163-145 and new §163-146 is covered in the new draft.

(6) The new draft covers the first two sentences of §163-171 which deal with replacement of spoiled ballots.

(7) The new draft covers the substance of Subsection (7) of §163-175.

(8) The first sentence of Subsection (e) in the new draft covers the provisions of both §163-168 and §163-83.

§163-151. Method of marking ballots in primary and election.

Source: §163-175, -167

Comment: The title of the section has been altered to reflect its more restricted coverage. In order to make plain what applies to primaries only, what applies to general elections only, and what applies to both, the section has been divided into three lettered and titled subdivisions.

Certain provisions in the present section have been dropped because they deal with matters other than instructions for marking ballots:

(1) What appears under (1) *c* in the present section is an instruction as to how ballots marked in a certain way are to be counted; it is not an instruction to the voter. Thus, it has been transferred to new §163-170 in Art. 15.

(2) The part of (3) which requires that properly executed write-ins must be counted in a general election is more appropriately covered in new §163-170 in Art. 15.

(3) The tacit instruction that a voter should not mark more names than there are positions to be filled now found in (4) has been retained in the new draft, but the portion of (4) which deals with counting instructions has been transferred to new §163-170 in Art. 15.

(4) The last sentence of the bracketed portion of (6) is already required by new §163-140(b)(4) and (5), and (c)(1).

The substance of §163-167 is included in the new draft. Other provisions of §163-175 not mentioned above have been rearranged, but no intentional changes have been made.

Careful consideration should be given to Subsections (b) 4 and (c) 2 in the new draft. They represent an attempt to clarify bracketed (6) in the present section.

§163-152. Assistance to voters in primaries and elections.

Source: §§163-172, -173, -174

Comment: The new draft takes the place of three sections in the present law: §§163-172, -173, and -174. It has been divided into subsections which

emphasize the differences in primaries and elections and in counties which have and which have not adopted full-time and permanent registration.

Under Subsection (a)-

Rule (1) a is drawn from §163-174

Rule (1) b-1 is implied in §163-174

Rules (1) b-2 and 3 are drawn from §163-174

Rule (2) is drawn from or implied from §163-174

Under Subsection (b)-

Under (1)-

Rule a1 is drawn from §163-172

Rules a2 I, III, and IV are drawn from §163-173

Rule a2 II is implied in §163-173

Rule b is drawn from §163-173

Under (2)-

Rule a1 is drawn from §163-172.

Rule a2 adheres to the instruction in the last sentence of §163-173 incorporating, for counties with full-time and permanent registration, §163-174 for general elections. (This applies to I, II, and III under Rule a2.)

Rule b is drawn from the portion of §163-173 which makes §163-174 applicable to counties with full-time and permanent registration.

Under Subsection (c)—The opening paragraph is drawn from §§163-173 and -174.

Rule (1) is drawn from §163-172

Rule (2) is drawn from §163-172

Rule (3) is drawn from §§163-172 and -173

Rule (4) is drawn from §163-173

Rule (5) is drawn from §163-172

Rule (6) is drawn from §163-172

Subsection (d)—This is taken from §163-174 and has been made applicable to general elections as well as primaries to avoid any possible conflict.

Subsection (e)—This is taken from §163-174 and has been made applicable to general elections as well as primaries to avoid different treatment of the two.

Although illiterate persons are not eligible to register and vote under the Constitution and statutes of North Carolina, in counties subject to the federal Voting Rights Act of 1965 the literacy test has been suspended, thus the provisions of existing law mentioning assistance for illiterate voters cannot be considered completely obsolete and have been incorporated in the new draft.

§163-153. Access to voting enclosure.

Source: §§163-170, -172, -173, -174, -182

Comment: This section gathers together from §§163-170, -172, -173, -174, and -182 all provisions dealing with persons who are allowed to enter the voting enclosure at the voting place during the time the polls are opened at a primary or election. It has been divided into two numbered subsections, to differentiate between counties which have and which have not adopted full-time and permanent registration.

Rules 1 a, b, and e are drawn from §163-170.

Rule 1 c is drawn from §163-172.

Rule 1 f is drawn from §§163-170, -172, and -173

Rule 1 g is drawn from §163-174.

Rules 1 d and h are drawn from §163-182.

Rules 2 a, b, and e are drawn from §163-170.

Rules 2 c and d are drawn from §§163-173 and -174

Rule 2 f is drawn from §163-182.

§163-154. Posting lists of civilian and military absentee voters and new resident presidential election voters.

Source: §§163-60, -76, -77.4, -112.3, -112.4

Comment: This is a new section. It is intended to bring together into a single section all provisions of the present law requiring the precinct registrar to post any lists at the voting place before noon on the day of a primary or election. It has been divided into two subsections to call attention to the differing requirements for general elections and primaries.

The sources of the various provisions of the new draft can be catalogued as follows:

(1) Item 1 in Subsection (a) is based on §163-60 in Art. 10.

(2) Item 2 in Subsection (a) is based on regulations of the State Board of Elections designed to carry out the intention of §163-77.4 in Article 11A and §163-60 in Article 10.

(3) Item 3 in Subsection (a) is based on §163-112.4 in Article 17.

(4) Subsection (b) is based on §163-77.4 in Article 11A and §163-76 in Article 11.

(5) Item 1 in Subsection (b) is based on §163-77.4 in Article 11A.

(6) Item 2 in Subsection (b) is based on §163-76 in Article 11.

ARTICLE 14.

Voting Machines.

§163-160. Voting machines; approval; rules and regulations.

Source: §§163-187.1, -187.4

Comment: A new article has been provided for Voting Machines for purposes of clarity. A new title has been given this section to indicate its broadened coverage.

The second paragraph of §163-187.1 forms the basis for both the first and second sentences of the new draft. The second paragraph of the new draft is taken from §163-187.4 and is placed here for purposes of clarity.

§163-161. Adoption of voting machines by county or municipality.

Source: §§163-187.2, -187.3

Comment: The present text of §163-187.2 makes use of permissive language ("may") throughout, and while this seems to add nothing to the authority already given the unit governing body by other provisions dealing with voting machines, nevertheless, the Commission is of the opinion that this is an accurate reflection of legislative intent. Thus, the permissive language has been retained in the new draft.

Here is an analysis of the sources of the contents of the new draft:

Subsection (a)—The first two paragraphs are drawn from §163-187.1. The third paragraph is based on the implication of the last part of §163-187.2. The fourth paragraph is drawn from the first part of §163-187.2.

Subsection (b)—The entire subsection is based on the middle portion of §163-187.2.

Subsection (c)—This is drawn from §163-187.3.

§163-162. Use of paper ballots where voting machines used.

Source: No comparable section in present law.

Comment: The Commission has inserted this section to take care of what seems to have been an oversight in the present statutes dealing with voting

machines. It is intended to protect the electorate in situations in which voting machines fail, and to provide ballots which may be signed by a challenged voter when the challenge is rejected by the precinct officials.

ARTICLE 15.

Counting Ballots, Canvassing Votes, and Certifying Results in Precinct and County.

§163-168. Proceedings when polls are closed.

Source: §163-84

Comment: The hour for closing the polls has been inserted in lieu of a general statement. There is some slight rephrasing but no intentional change in the substance of the first paragraph of the present section.

§163-169. Counting ballots at precinct; unofficial report of precinct vote to county board of elections.

Source: §§163-84, -112.4

Comment: The section has been broken into ten lettered and titled subsections for the sake of clarity.

The word "clerks" (meaning assistants at the precinct) has been dropped in favor of the word "assistants." The expression "presiding judge" (meaning a precinct election official) has been dropped in favor of "registrar."

(1) The first two sentences of the second paragraph of present §163-84 have been incorporated in new §163-43, in Art. 5, thus they are not covered in the new draft here.

(2) The last sentence of the fourth paragraph of present §163-84 has been incorporated in new §163-41(a) in Art. 5, thus is not covered in the new draft here.

(3) At the end of new Subsection (c) has been inserted a sentence to prohibit interference with the counting process.

(4) This section supplants §163-127 (counting primary ballots), part of §163-178, and that portion of §163-125 which specifies that in primaries only official ballots are to be counted.

(5) Subsection (i) is inserted as a matter of caution. It does not change the law.

(6) Subsection (j) is taken directly from the last sentence of §163-112.4.

§163-170. Rules for counting ballots.

Source: §§163-84, -168, -175

Comment: This new section is designed to gather together instructions on counting now scattered in a number of sections and in more than one article.

(1) The opening sentence is taken from §163-84.

(2) Rule 1 is taken from §163-168.

(3) Rule 2 is taken from §163-175(4).

(4) Rule 3 is taken from §163-175(4).

(5) Rule 4 is taken from §163-175(8).

(6) Rule 5 is based on §163-175(3) and (5).

(7) Rule 6 is drawn from §163-175(3) and from the Instructions of the State Board of Elections issued before the 1964 General Election.

(8) Rules 7 and 8 are designed to complement the instructions to the voter found in §163-151(b) and (c).

§163-171. Preservation of ballots; locking and sealing ballot boxes; signing certificates.

Source: §§163-84.2, -136

Comment: At the present time §163-136 contains (among others) the following provisions:

“... it shall be the duty of the judges and registrars to preserve and keep for two months after each election the original ballots cast at such election. . . .”

“... no [ballot] box shall be opened except upon the written order of the county board of elections or a proper order of court.”

Although the section containing these provisions is part of Article 19 dealing with *primaries*, the language is broad enough (and presumably the intention is proper enough) to indicate that they should be made applicable to general elections as well as primaries. Thus, they have been incorporated into new §163-171.

The portion of §163-84.2 requiring the chairman to furnish locks, seals, and instructions, has been transferred to new §163-143 in Art. 13.

§163-172. State Board of Elections to prepare and distribute abstract forms.

Source: §163-116

Comment: The section has been made specifically applicable to primaries, but this is not a departure from the intent of the present law. It has been transferred to this article from Article 18 (which deals with miscellaneous matters) because it logically fits here.

§163-173. How precinct returns are to be made.

Source: §§163-85, -136, -139

Comment: (1) The provision of §163-85 requiring the county board to hold the canvass has been dropped here and carried forward into new §163-175; the same course has been followed with respect to the board's power to go after the returns.

(2) The wording in the definition of the misdemeanor has been altered. No substantive change is intended.

(3) The section adequately covers relevant portions of §163-136 as well as the last clause in §163-131 (re primary returns).

(4) The new draft of the section also covers a portion of §163-139.

(5) The new draft incorporates the fourth sentence of §163-178 which reads as follows:

A certificate setting forth the results of such election shall be signed by the registrar and judges of election.

§163-174. Registration and poll books to be returned to chairman of county board of elections.

Source: §163-48

Comment: The substance of the first sentence of the present section is incorporated in the new draft with one change: The judge who brings in the returns is permitted to bring in the registration and poll books instead of the registrar, if properly appointed.

The substance of the last sentence of the present section is covered in new §163-66 in Art. 7.

§163-175. County board of elections to canvass returns and declare results.

Source: §§163-86, -143, -85

Comment: The word “electors” has been changed to “persons.” The split infinitives—“to judicially pass upon” and “to judicially determine”—have been retained because they have been the subject of judicial interpretation and some risk is involved in changing them. See *Ponder v. Joslin*, 262 N. C. 496, 138 S. E. 2d 143 (1964).

(1) The first paragraph of the new draft is drawn from present §163-85. The provisions are placed here for reasons of order and logic in presentation; only one substantive alteration has been made: The insertion of "Sunday excepted" in parenthesis is designed to let the statute reflect what has become the extra-legal custom following the primary. The word "peace" has been inserted before the word "officer" for clarity.

(2) The requirement for signing duplicate abstracts has been inserted because, although it is required, the present law lacks this positive injunction.

(3) Separate requirements have been described for general and primary elections; this permits deletion of a separate primary requirement in §163-137 in Article 19. The requirement that a county-wide total be prepared has been added, although it is already implied.

(4) The power of the elections board to order recounts on its own motion makes specific what the Supreme Court said in *Strickland v. Hill*, 253 N. C. 198, 116 S. E. 2d 463 (1960).

(5) The substance of the next to last paragraph is drawn from §163-143 (in the Primary Law). By covering its provisions here and in new §163-190 in Article 16, the section can be dropped.

(6) The last paragraph of the new draft has been transferred here from the second paragraph of §163-91.

§163-176. Preparation of original abstracts; where filed.

Source: §§163-87, -88, -139

Comment: (1) The new draft is intended to cover all of present §163-87 as well as present §163-88.

(2) The present numbered listing of the number of abstracts to be prepared has been dropped in the belief that this is the kind of thing that can and should be handled by regulation of the State Board of Elections and has no place in the statute.

(3) The section has been drawn to serve for both the primary and general election. Thus, a portion of §163-137 (re primary) can be eliminated from that section. One portion of §163-139 is adequately covered by the new draft's requirement that all abstracts carry an affidavit of correctness.

(4) The requirement that the abstracts carry an affidavit has been transferred to this section from §163-89; it is not an innovation.

§163-177. Disposition of duplicate abstracts.

Source: §§163-89, -137

Comment: The new draft merges the present §163-89 and §163-137 thereby making it unnecessary to have a separate section for primaries. The lists of offices to be canvassed have been expanded to be as inclusive as possible.

§163-178. Clerk of superior court to send statement of votes to Secretary of State.

Source: §§163-90, -142

Comment: The section, following the intention of §163-142 [now covered by new §163-104 in Art. 10], has been made applicable to primaries—subject to modifications which may be made by the State Board of Elections. (This is the meaning of the added last paragraph.) The words of the definition of the misdemeanor have been simplified and made more direct.

§163-179. Who declared elected by county board.

Source: §163-91

Comment: (1) The second paragraph of the present section (dealing with determination and publication of results) has been transferred to new §163-175.

(2) The present section states that in case of a tie, "the county board of elections shall determine which shall be elected," and the new draft inserts the words "by lot" after the word "determine."

§163-180. Chairman of county board of elections to furnish certificate of election.

Source: §163-92

Comment: The proviso in the present section is so confusing that the new draft attempts to recast this section and also new §163-181 to accomplish what seems to have been the legislative intent. Prior to 1947 the section ended with the first two sentences. In 1947 the third sentence was added. In 1955, following the Supreme Court's decision in *Freeman v. Ponder*, 234 N. C. 294, 67 S. E. 2d 292 (1951), the first portion of the proviso—i.e., the portion ending with the phrase "until the contest has been finally decided by the county or State Board of Elections"—was added. In 1959 the remaining portion of the proviso was appended to the section.

The expression "after the results of the election have been officially certified and public notice given of the results" has been changed to "after the results of an election have been officially determined and published in accordance with" specified statutes. This is done for clarity and uniformity of usage.

(1) The portion of the proviso added in 1955 has been transferred to a separate section, new §163-181, and made specifically applicable to this section by the insertion of the last paragraph of the new draft.

(2) The substance of the portion of the proviso added in 1959 has been carried forward in the draft as a time limitation.

(3) The date from which the time limits of the section are to be measured has been inserted. This does not appear in the present statute but is necessarily implied.

§163-181. Election contest stays certification of nomination or election.

Source: §163-92

Comment: As indicated in the Comment on new §163-180, this section is substantially nothing more than the essence of a proviso inserted in §163-92 by the General Assembly of 1955. Since it has always been applicable to both primaries and general elections it seemed desirable not to let it be hid in a section dealing wholly with certifications after a general election.

ARTICLE 16.

Canvass of Returns for Higher Offices and Preparation of State Abstracts.

§163-187. State Board of Elections to canvass returns for higher offices.

Source: §§163-93, -138

Comment: (1) The section has been made applicable to primaries as well as to general elections. This carries out the general intent of §163-142 and the specific intent of §163-138, a section that, in the light of the new draft here and new §163-188 can be deleted.

(2) In *Ponder v. Joslin*, 262 N.C. 496 (1964), the plaintiff took the position that the State Board of Elections "cannot go behind the returns certified to it by a county board of elections; that in such a situation the only duty of the State Board of Elections is to compile and tabulate the returns as certified by the various county boards of election and that this is merely a ministerial duty to be performed pursuant to the provisions of G.S. 163-138." In response to this contention, the North Carolina Supreme Court said: "We do not concur in this view when a protest has been filed challenging the legality of the

returns certified by a county board of elections. . . . By enactment of Chapter 165 of the Public Laws of 1933 (now codified as Chapter 163, General Statutes) the General Assembly gave broad supervisory powers to the State Board of Elections." The Supreme Court then quoted Subsections (10), (11), and (15) of G. S. 163-10, to illustrate what it meant by "broad supervisory powers."

To reflect this decision of the Supreme Court and to avoid future argument, the opening phrase has been inserted in the new draft: "In addition to the other powers and duties assigned to it [the State Board] by this chapter. . . ." This is a direct reference to §163-10, Subsections (10), (11), and (15) [now (a), (c), and (d)].

§163-188. Meeting of State Board of Elections to canvass returns of primary and election.

Source: §163-94

Comment: The expression "abstract of returns" has been used to avoid the use of "abstract" and "returns" when only one thing is intended. (The "returns" are the votes; the "abstract" is the record of the votes.)

(1) The section, in line with §163-142 and §163-138, has been made specifically applicable to primaries as well as general elections. (2) Since no date for the canvass after the primary is now set by law, a statement allowing the State Board to set the date has been inserted.

§163-189. Meeting of State Board of Elections to canvass returns of a special election for United States Senator or Representative.

Source: §§163-95, -102

Comment: The procedure to be followed in both situations is handled (logically) in one section. The last sentence of present §163-95 has been made more specific, i.e., "county board of elections" has been substituted for "returning officers." Also, the last sentence has been slightly revised to make it clear that county returns must be sent in by the date of the canvass—not merely "within the ten days" for the canvass may be held earlier than ten days after the election.

§163-190. State Board of Elections may refer to ballot boxes to resolve doubts.

Source: §163-143

Comment: The present statute appears in the Primary Law article. In the new draft the portions which deal with the county boards of election have been inserted in new §163-175 in Article 15. The portions dealing with the State Board have been broadened to cover disputes in any area and inserted here.

§163-191. Contested primaries and elections; how tie broken.

Source: §163-99

Comment: This section has been transferred to this article from Article 16 because it seems to fit more logically at this point. The new first paragraph does nothing more than make a reference to indicate that problems in primaries are to be handled under a different statute. The provision specifying that ties and contests go to the General Assembly only if an office canvassed by the State Board is involved, has been inserted to make it clear that not every contest goes that route.

§163-192. State Board of Elections to prepare abstracts and declare results of primaries and elections.

Source: §§163-96, -97

Comment: The title has been expanded to cover new material inserted in

the section. The substance of present §163-96 appears in the second subsection of the new draft; the first subsection contains new material; the third subsection contains material in the second paragraph of present §163-97.

In the first and second subsections the word "solicitorial" has been substituted for "judicial" to correct an error of fact in the present law. The word "duplicate" has been substituted for "original" in the third subsection to bring the section into line with new §163-177 in Article 15.

The first subsection contains new material, but it is not actually new law; it merely spells out the intention of §163-142 that the General Election law be applied to Primaries.

In the first and second subsections provisions have been inserted concerning abstracts of votes for district judges to take care of a new duty of the State Board of Elections.

The third subsection is transferred to this position from §163-97 because it fits logically at this point.

§163-193. Results of election certified to Secretary of State; certificates of election.

Source: §163-97

Comment: An effort has been made to remove some of the strained construction in the present section, but there has been no intentional change in substance.

§163-194. Governor to issue commissions to certain elected officials.

Source: §§163-106, -114

Comment: The word "commission" has been substituted for "certificate" in the title, and the word "attesting" has been used in place of "certifying" to avoid confusion.

A portion of §163-114 has been combined with this section for purposes of conciseness and logic.

§163-195. Secretary of State to record abstracts.

Source: §163-98

Comment: The last clause in the present section has been covered by inserting the words "State, district, and county" before the word "abstracts" at the opening of the section. This retains the sense of the present section but removes some of its awkwardness. Other simplifications have no substantive significance.

ARTICLE 17.

Members of United States House of Representatives.

§163-201. Congressional districts specified.

Source: §163-103

Comment: The new section is identical with its source.

§163-202. Election after reapportionment of members of House of Representatives.

Source: §163-104

Comment: The new draft makes no substantive change in its source.

ARTICLE 18.

Presidential Electors.

§163-208. Conduct of presidential election.

Source: §163-107

Comment: The expression "as nearly as may be directed in relation to the

election of State officers" is unduly awkward. Similarly, the exception in the present section comes as an afterthought. The new draft puts the reader on notice of the exception at the beginning, and it attempts to make the section simpler. No effort has been made to change its meaning.

§163-209. Names of presidential electors not printed on ballots.

Source: §163-108

Comment: Much of this section now duplicates specific instructions concerning the preparation of ballots more properly covered by new §163-140. Thus, this section has been simplified and a reference to new §163-140 has been inserted.

§163-210. Governor to proclaim results; casting State's vote for President and Vice-President.

Source: §163-110

Comment: The expression "duplicate-originals" has been substituted for "lists" in the second paragraph to conform the state statute to the governing federal statute.

(1) The first paragraph of present §163-110 is adequately covered by new §163-187, §163-188, §163-192, and §163-193—all in Article 16—thus its provisions are omitted from the new draft of this section.

(2) The section now makes it clear that the Secretary of State is to accept the determination of the State Board of Elections as to the persons elected as electors when he certifies their names to the Governor. Under the present section it might be possible to reach a different conclusion.

(3) The date of the meeting of presidential electors is set by federal law. The Hall of the House of Representatives has been substituted for "the Capitol" as a more likely statement of the original legislative intent with respect to the place at which presidential electors cast their ballots.

(4) The second paragraph of the new draft has been rewritten to conform exactly with the federal law—Title 3, §6, USC (1964).

§163-211. Compensation of presidential electors.

Source: §163-111

Comment: No significant change from source.

§163-212. Penalty for failure of presidential elector to attend and vote.

Source: §163-112

Comment: No significant change from source.

ARTICLE 19.

Petitions for Elections and Referenda.

§163-218. Registration of notice of circulation of petition.

Source: §163-208

Comment: The word "election" has been retained but the alternative word "referendum" has been inserted, not to expand the section's coverage but to clarify what was necessarily the meaning of the term "election." A few legalisms have been deleted.

The words "election board," being indefinite, have been changed to "county board of elections."

§163-219. Petition void after one year from registration.

Source: §163-209

Comment: No substantive change from source.

§163-220. Limitation on petitions circulated prior to July 1, 1957.

Source: §163-210

Comment: The present section dates from 1957 and is written in terms of then-existing conditions. Although now probably obsolete, the section is retained for completeness.

SUBCHAPTER VII. ABSENTEE VOTING

ARTICLE 20.

Absentee Ballot.

§163-226. Who may vote an absentee ballot.

Source: §163-54

Comment: The source section has been rearranged in list form in lieu of the single paragraph of the present text.

"Absent from the county in which he is a qualified elector" has been changed to "absent from the county in which he is registered." To be a qualified elector in this State one must be registered, thus the change is not substantive.

"Voting place" has been substituted for "polls" in conformity with the standard usage of the recodification.

No intentional changes have been made. The new draft conforms to State Board of Elections "Procedure for Administering the Civilian Absentee Ballot Law," October 1965, Rule 1. (Hereafter these regulations will be referred to as SBE Rules.)

§163-227. Application for absentee ballots; forms of application.

Source: §163-55

Comment: The new draft provides that the applicant make application to the chairman of the board of elections of "the county in which he is registered" rather than "to the chairman of the county board of elections of applicant's residence." This does not seem to be a substantive change.

The expressions "the fifth day before the election" and "five days before the election" have been simplified to merely "Wednesday before the election" or a comparable phrase.

The portion of present §163-55(5) providing for the transmittal of ballots to approved applicants has been transferred to new §163-230(c).

The derivation of the various parts of the new draft can be traced as follows:

Subsection (a) is taken from §163-55(1).

Most of subsection (b) is taken from §163-55(2).

Subsection (c) is taken from §163-55(3).

Subsection (d) is taken from §163-55(4).

Subsection (e) is taken from §163-55(5). [Other portions of (5) are transferred to more logical locations.]

The new draft is consistent with SBE Rules 2, 3, 4a, 4b, 4c, 5, 6, and 7, although it does not specifically permit the elections board chairman to "authorize a responsible person employed by the [County] Board [of Elections] for this purpose to perform the routine handling of applications [for absentee ballots] and ballots to make the proper entries in the Register. . . ." The statute does not need such a provision since it is within the regulatory jurisdiction of the State Board of Elections.

Subsection (b), which provides for absentee ballot applications by persons ill or physically disabled before Wednesday before the election, as it stands

election of State officers" is unduly awkward. Similarly, the exception in the present section comes as an afterthought. The new draft puts the reader on notice of the exception at the beginning, and it attempts to make the section simpler. No effort has been made to change its meaning.

§163-209. Names of presidential electors not printed on ballots.

Source: §163-108

Comment: Much of this section now duplicates specific instructions concerning the preparation of ballots more properly covered by new §163-140. Thus, this section has been simplified and a reference to new §163-140 has been inserted.

§163-210. Governor to proclaim results; casting State's vote for President and Vice-President.

Source: §163-110

Comment: The expression "duplicate-originals" has been substituted for "lists" in the second paragraph to conform the state statute to the governing federal statute.

(1) The first paragraph of present §163-110 is adequately covered by new §163-187, §163-188, §163-192, and §163-193—all in Article 16—thus its provisions are omitted from the new draft of this section.

(2) The section now makes it clear that the Secretary of State is to accept the determination of the State Board of Elections as to the persons elected as electors when he certifies their names to the Governor. Under the present section it might be possible to reach a different conclusion.

(3) The date of the meeting of presidential electors is set by federal law. The Hall of the House of Representatives has been substituted for "the Capitol" as a more likely statement of the original legislative intent with respect to the place at which presidential electors cast their ballots.

(4) The second paragraph of the new draft has been rewritten to conform exactly with the federal law—Title 3, §6, USC (1964).

§163-211. Compensation of presidential electors.

Source: §163-111

Comment: No significant change from source.

§163-212. Penalty for failure of presidential elector to attend and vote.

Source: §163-112

Comment: No significant change from source.

ARTICLE 19.

Petitions for Elections and Referenda.

§163-218. Registration of notice of circulation of petition.

Source: §163-208

Comment: The word "election" has been retained but the alternative word "referendum" has been inserted, not to expand the section's coverage but to clarify what was necessarily the meaning of the term "election." A few legalisms have been deleted.

The words "election board," being indefinite, have been changed to "county board of elections."

§163-219. Petition void after one year from registration.

Source: §163-209

Comment: No substantive change from source.

§163-220. Limitation on petitions circulated prior to July 1, 1957.

Source: §163-210

Comment: The present section dates from 1957 and is written in terms of then-existing conditions. Although now probably obsolete, the section is retained for completeness.

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ARTICLE 20.

Absentee Ballot.

§163-226. Who may vote an absentee ballot.

Source: §163-54

Comment: The source section has been rearranged in list form in lieu of the single paragraph of the present text.

"Absent from the county in which he is a qualified elector" has been changed to "absent from the county in which he is registered." To be a qualified elector in this State one must be registered, thus the change is not substantive.

"Voting place" has been substituted for "polls" in conformity with the standard usage of the recodification.

No intentional changes have been made. The new draft conforms to State Board of Elections "Procedure for Administering the Civilian Absentee Ballot Law," October 1965, Rule 1. (Hereafter these regulations will be referred to as SBE Rules.)

§163-227. Application for absentee ballots; forms of application.

Source: §163-55

Comment: The new draft provides that the applicant make application to the chairman of the board of elections of "the county in which he is registered" rather than "to the chairman of the county board of elections of applicant's residence." This does not seem to be a substantive change.

The expressions "the fifth day before the election" and "five days before the election" have been simplified to merely "Wednesday before the election" or a comparable phrase.

The portion of present §163-55(5) providing for the transmittal of ballots to approved applicants has been transferred to new §163-230(c).

The derivation of the various parts of the new draft can be traced as follows:

Subsection (a) is taken from §163-55(1).

Most of subsection (b) is taken from §163-55(2).

Subsection (c) is taken from §163-55(3).

Subsection (d) is taken from §163-55(4).

Subsection (e) is taken from §163-55(5). [Other portions of (5) are transferred to more logical locations.]

The new draft is consistent with SBE Rules 2, 3, 4a, 4b, 4c, 5, 6, and 7, although it does not specifically permit the elections board chairman to "authorize a responsible person employed by the [County] Board [of Elections] for this purpose to perform the routine handling of applications [for absentee ballots] and ballots to make the proper entries in the Register. . . ." The statute does not need such a provision since it is within the regulatory jurisdiction of the State Board of Elections.

Subsection (b), which provides for absentee ballot applications by persons ill or physically disabled before Wednesday before the election, as it stands

in the present law requires that the application form in every instance be signed by the voter himself. This does not take into account situations in which a sick or physically disabled voter is for some physical reason unable to sign his own application. An attempt has been made to provide for this contingency under safeguards comparable to those used in Subsection (c), and an appropriate form has been inserted. It should be noted that the voter's attending physician is added to the list of persons who may sign the application for him and at his request.

§163-228. Register of Absentee Ballot Applications and Ballots Issued; a public record.

Source: §163-63

Comment: The full title of the one register is used here and elsewhere in the recodification: "Register of Absentee Ballot Applications and Ballots Issued." The word "elector" has been changed to "registered voter."

The section is drawn from present §163-63 and §163-56(1). It is consistent with SBE Rule 13, although that rule goes further and provides that the original applications themselves are public records open to reasonable inspection.

§163-229. Absentee ballots, container-return envelopes, and instruction sheets.

Source: §§163-56, -57

Comment: In Subsection (b) the affidavit form on the container-return envelope has been slightly rearranged and two word substitutions have been made for the sake of uniform usage: "sickness" for "illness," and "registered voter" for "qualified voter."

The section is designed to consolidate provisions of several sections dealing with documents or items the chairman of the county board of elections must furnish a successful applicant for absentee ballots.

Subsection (a) is drawn from §163-56(3)

Subsection (b) is drawn from §163-57. (The requirement that container-return envelopes be printed 45 days in advance of the election is implied in §163-55.)

Subsection (c) is drawn from §163-56(3).

§163-230. Consideration and approval of applications and issuance of absentee ballots.

Source: §163-56

Comment: The entire section has been rewritten to consolidate all relevant provisions now in other sections:

Subsection (a) is drawn from §163-56(1)

Subsection (b) (1) is drawn from §163-56(2)

Subsection (b) (2) is drawn from §163-56(2) and from §163-56(3)

Subsection (b) (3) is drawn from §163-56(2)

Subsection (c) (1) is drawn from §163-56(3)

Subsection (c) (2) is drawn from §163-56(3) and from §163-57

Subsection (c) (3) is drawn from §163-56(3) and from §163-55(5)

The new draft is consistent with SBE Rules 8 and 9 and specifically codifies the following portions of SBE Rule 8:

The State Board of Elections has adopted a regulation that each County Board of Elections shall hold an additional public meeting at 10:00 o'clock, a.m., on Thursday preceding the general election to pass upon all absentee applications received by the Chairman since the preceding Monday morning and up to the cut-off period at 6:00 o'clock, p.m., on Wednesday before

the election so that there will be more time for ballots to be sent to such applicants and received back by the Chairman by the noon deadline on the following Saturday.

The State Board of Elections has also adopted a regulation that the County Board of Elections need not hold the meeting on Thursday before the election, or any of the meetings prescribed to be held on Mondays and Fridays, unless it actually has one or more applications for absentee ballots pending consideration by it. When no meeting is to be held because of no pending applications to be passed upon, the Chairman shall notify each of the other two members that the scheduled public meeting will not be held since there are no applications pending to be heard.

§163-231. Voting absentee ballots and transmitting them to chairman of county board of elections.

Source: §163-58

Comment: An effort has been made to harmonize the provisions of the present law.

Subsection (a) is drawn from §163-58.

Subsection (b) is drawn from §163-58 and from §163-55(5).

The new draft is substantially consistent with SBE Rules 10 and 11.

§163-232. Certified list of approved applications to be transmitted to State Board of Elections and posted; original applications to accompany list.

Source: §163-59

Comment: The new version has been designed to clarify the meaning of the present section. The present lack of clarity arises from the fact that:

1. The section states that the chairman is to make a list of all applications received by him from voters to whom he has issued ballots—meaning only approved applications.

2. In the certificate the chairman states that “the foregoing is a list of all applications filed with me”—meaning those disapproved as well as those approved.

3. The section states that he must forward all applications to the State Board and his certificate says that he has issued ballots “to no other persons than those listed [on the foregoing list of *all* applications], whose original applications are enclosed. . . .”

The new draft requires that all original applications be sent to the State Board of Elections but requires that the chairman list only those which have been approved by the county board.

The present certificate form fails to take into account the fact that, under the law, the chairman may be called upon to issue ballots to one other than the voter himself. Thus, the certificate has been amended accordingly.

The words “On the morning of the day before any general election” have been dropped in favor of “before noon on the day before any State-wide general election.”

The new version is generally consistent with SBE Rule 12a.

§163-233. Lists of absentee ballots received; distribution; delivering executed absentee ballots to appropriate registrars.

Source: §163-60

Comment: The word “quadruplicate” has been inserted to cover the section’s assumption that four copies of the list will be needed. “Before noon” has been substituted for “on the morning of the day.” [This is done primarily to insure that the registrar can post the list “by noon” as required by new §163-154 in Art. 13.]

A completely new provision has been inserted requiring the preparation of supplemental lists of absentee ballots received after the original list is prepared but before 3 p.m. This is essential for consistency. Otherwise, the draft is consistent with SBE Rule 12b.

§163-234. Absentee ballots deemed voted upon delivery to registrar; opening container-return envelope and depositing ballots; rejected ballots.

Source: §163-61

Comment: Although substantially rewritten, only two major changes need be noted:

1. All provisions for challenging an absentee ballot have been transferred to new §163-89 which has been codified in Article 8 to insure that all sections of the chapter dealing with challenges may be found in a single article.

2. In the present statute, when an absentee ballot is to be counted the following procedures are specified:

a. The name of the absentee voter as it appears on the affidavit on the container-return envelope is called out by one of the judges.

b. If found to be registered and qualified in the precinct, and if not challenged, the voter's name is recorded in the poll book as an absentee voter.

c. A judge then opens the container-return envelope and removes the ballots and deposits them in the appropriate boxes. Then the section continues as follows:

[P]rovided, however, that if the affidavit and jurat are not in due form, or the voter did not sign his name on the affidavit on the envelope, or the officer's seal is not affixed, said ballot shall not be deposited in the ballot box, nor counted, but returned to its envelope and marked "Rejected."

Since the affidavit, the place for the voter's signature, the jurat, and the officer's seal must all appear on the *outside* of the container-return envelope and not on the ballot, the question arises why should the envelope be opened and the ballots removed *before* these matters are considered and decided? The issue becomes even more obvious when the absentee ballot is challenged:

If an absent voter's ballot is challenged and the challenge is sustained, the ballot shall be *returned to its envelope* and marked "Challenge Sustained" and returned as provided for the return of rejected ballots.

The words *italicized* here are inconsistent with the words *italicized* above. As noted in the Comment under new §163-89 in Article 8, the 1965 Legislature assumed that questioned and challenged absentee ballots would remain in unopened container-return envelopes until a decision had been made as to their validity. If rejected, or if the challenge was sustained, the 1965 Legislature assumed that the envelope would remain sealed.

Thus, the new draft of this section as well as the new draft of new §163-89, has adopted the interpretation assumed by the 1965 General Assembly.

§163-235. Absentee voting where voting machines used.

Source: §163-64

Comment: The section has been rewritten to achieve greater precision without changing its present intention.

The requirement that paper ballots be printed for absentee voting in precincts using voting machines is taken care of by an appropriate statement in new §163-136(c) in Article 13.

§163-236. Violations by chairman of county board of elections.

Source: §163-67

Comment: Most of the source section antedates the 1963 amendments to the Absentee Ballot Law, and a careful reading indicates that it is now partially obsolete. To insure that the offenses are defined in terms of the article now

prescribing the chairman's functions, references to appropriate sections have been introduced into the new draft.

The reference to "blank certificates" has been deleted as obsolete.

§163-237. Certain violations of absentee ballot law made criminal offenses.

Source: §§163-65, -66, -185, -68

Comment: The four source sections have been combined in a single section—broken into numbered and titled subsections—without any material alterations.

§163-238. Reports of violations to Attorney General and solicitors.

Source: §163-69

Comment: For the sake of accuracy the word "solicitorial" has been substituted for the word "judicial" as descriptive of the district in which a solicitor serves. Otherwise, the section has not been materially altered.

§163-239. Article 21 relating to absentee voting by servicemen and certain civilians not applicable.

Source: §163-69.1

Comment: The new draft modifies the existing section to reflect the merger of Articles 11 and 11A in the recodification.

ARTICLE 21.

Military Absentee Registration and Voting in Primary and General Elections.

§163-245. Persons in armed forces, their wives, certain veterans, civilians working with armed forces, and members of Peace Corps may register and vote by mail.

Source: §§163-77.1, -77.9, -70

Comment: Article 11 containing §163-70 was enacted in 1941 to allow servicemen to vote in *primaries* by absentee ballot. Article 11A containing §163-77.1 was enacted in 1943 to make provision for absentee registration and voting in *general* elections, but in 1945, through amendment to §163-77.9, Article 11A was made fully applicable to *primaries*. This action made for considerable redundancy. Thus, the provisions of §163-70 have been combined with §163-77.1 to cover both *primaries* and elections.

§163-246. Provisions of Article 20 applicable except as otherwise provided; State Board of Elections to adopt regulations.

Source: §§163-77.7, -77.8, -74

Comment: The State Board of Elections' authority to supplement and explain the article through adoption of regulations (now found in §163-77.8 and §163-77.9) is closely related to the provisions of present §163-77.7. Thus, in the new version the substance of the sections has been combined in a single section.

§163-247. Methods of applying for absentee ballots.

Source: §§163-77.2, -77.6, -71

Comment: Present §163-77.2 provides for use of the federal post card application form in general elections; it is made applicable to *primaries* by §163-77.9. §163-77.6 allows direct application to the chairman of the county board of elections in lieu of use of the federal form. §163-71 provides for written application to the county board chairman for absentee ballots for a *primary*. The new draft combines these sections into a single section applicable to both *primaries* and general elections.

The list of items that must be shown upon an application made directly

to the chairman of the county board of elections is made up from the requirements of the federal post card as well as present §163-71.

§163-248. Register, ballots, container-return envelopes, and instruction sheets.

Source: §§163-71, -72, -76, -77.3, -57, -77.4, -77.5, -77.6, -77.10, -73.

Comment: This section combines several provisions of other sections into one, primarily to insure that record requirements can be found without having to search through several sections. Separate subsections have been used to keep the requirements of each record from being confused with others.

Subsection (a) is drawn to parallel the provisions of new §163-228 in Article 20 (requiring a comparable register for civilian absentee ballot applications); it makes affirmative the assumption of a register found in §§163-71, -72, -76, -77.3, -77.4, and 77.6. The portion of the section making the register a public record is taken from the second paragraph of §163-76. It should be noted that this section requires the register to be "open to inspection by any voter of the county at any time," while new §163-228 in Article 20 requires the civilian absentee register to be open "at any time within thirty days before and thirty days after a State-wide general election, or at any other time when good and sufficient reason may be assigned for its inspection."

On analysis it appears that the source sections make the following provisions for recording applications for military absentee ballots and for registering persons making application:

1. Regardless of whether the application is made on the federal post card or directly to the county board chairman, upon receipt it is to be noted in a special register by the chairman of the board of elections. In Article 11 (primary) this register is denominated by §163-72 the "Absentee Register of Absentee Military Applications." In Article 11A (both general election and primary) the chairman is to use the same register he uses for civilian applications, i.e., the one called "Register of Absentee Ballot Applications and Ballots Issued" by §163-56.

2. If the applicant is found to be registered in the regular books of the appropriate precinct, he does not need to be re-registered. If the applicant is not already registered, but is found to be qualified, the chairman is required to register him. In this instance the statutes (§163-77.5 and §163-77.12) make it plain that this registration expires when the registrant ceases to qualify for the benefits of Article 11A. In such a situation, §163-77.5 provides that the list prepared by the chairman of the county board of elections under §163-77.4 "shall constitute the only precinct registration of the members of the armed forces *registering* under the provisions of this article. . . ." The list referred to is the "list of all persons who have applied for absentee ballots under the federal act and whose names [the chairman] has *registered** on said absentee *registration**** book" and which is entitled "List of applicants under the federal act of absentee ballots *registered* by chairman of county board of election."** This description and title are both imprecise because they suggest the applicant is limited to use of the post card application, an assumption negated by §163-77.6. which specifically empowers the chairman to register qualified applicants who make written application to him directly "in his *registration**** book."

The words italicized here are not used consistently in the statutes. The word "registered" marked thus * actually means "entered." A more accurate rendition of the title marked thus ** would be "List of Persons to Whom Servicemen's Absentee Ballots Have Been Issued by Chairman of County Board of Election." The expression "registration book" marked thus ***

should be read as "Register of Military Absentee Ballot Applications and Ballots Issued."

Specific statements with regard to preparing absentee ballot forms and instruction sheets have been inserted in place of the rather casual references found in the present statute. See subsections (b) and (d).

As to subsection (c): Present §163-73 contains a form for the container-return envelope certificate to be signed by the voter in a *primary*, while present §163-77.3 states that the comparable certificate in a *general election* is to be the same as that specified in §163-57 for civilian absentees. To simplify the unnecessary duplications and differences, the new draft carries a single form of certificate appropriate for both, and which does not require the voter to state his party affiliation unless he seeks to vote in a primary. The certificate has been drafted to require almost exactly the same information required by the federal post card application form.

§163-249. Consideration and approval of applications and issuance of absentee ballots.

Source: §§163-71, -72, -77.3, -77.5

Comment: This new section combines elements now found in several sections. It has been given a title parallel to a comparable section in new Article 20 (dealing with the civilian absentee ballot), new §163-230.

The parallel with the civilian absentee ballot law has been made specific rather than general as is now provided under §163-77.7.

§163-250. Voting absentee ballots and transmitting them to chairman of county board of elections.

Source: §163-74

Comment: The title of the section and its paragraph division have been patterned after new §163-231 in Article 20, the comparable section in the civilian absentee law.

The section has been made somewhat more precise in its details, and the possibility that the voter may have his ballots marked for him (under his direction) already envisioned in the form of the certificate he signs [See new §163-248 (c).] has been taken into account.

§163-251. Certified list of approved military absentee ballot applications; record of ballots received; disposition of list; list constitutes registration.

Source: §§163-77.4, -77.5, -74

Comment: The new section draws from all sections of present Articles 11 and 11A which deal with the list of military absentee voters and its status, thus it has been given an appropriate title and divided into titled subsections.

The present law is not clear, and it is felt that a separate section dealing with this subject is needed. Thus, in line with the statement of legislative intent expressed in §163-74 and §163-77.7, the new draft conforms the provisions concerning the chairman's list of military absentees to the law dealing with the chairman's list of civilian absentee voters: It contains the names of all applicants who have been sent ballots; a copy (together with the original applications) is to be sent to the State Board of Elections; and a supplemental list is provided for in case of applications received too late for entry on the original list.

The list's status as a registration record for persons not registered in the regular books is preserved.

§163-252. Unlawful absentee voting in primary made misdemeanor.

Source: §163-77

Comment: No substantial change, but care has been taken to limit the

section's coverage to persons not entitled to the benefits of the article and to retain its restricted application to the primary.

§163-253. Article inapplicable to persons after change of status; re-registration required.

Source: §163-77.12

Comment: The section has been reworded but the substance has not been altered.

SUBCHAPTER VIII. CRIMINAL OFFENSES

ARTICLE 22.

Corrupt Practices and Other Offenses Against the Elective Franchise.

§163-259. Definitions.

Source: §163-189

Comment: The new draft adopts the present section without change.

§163-260. Detailed accounts to be kept by candidates and others.

Source: §163-190

Comment: The new draft adopts the present section without change.

§163-261. Detailed accounting to candidates of persons receiving contributions.

Source: §163-191

Comment: The new draft adopts the present section without change.

§163-262. Detailed accounting of persons making expenditures.

Source: §163-192

Comment: The new draft adopts the present section without change.

§163-263. Statements under oath of pre-primary expenses of candidates; report after primary.

Source: §163-193

Comment: The new draft adopts the present section without substantive change.

§163-264. Contents of such statements.

Source: §163-194

Comment: The new draft adopts the present section without change.

§163-265. Statements required of campaign committees covering more than one county; verification of statements required.

Source: §163-195

Comment: The new draft adopts the present section without change.

§163-266. Failure to report contributions or expenditures made misdemeanor.

Source: §163-196 (7) and (8)

Comment: Since the substance of subsections (7) and (8) of §163-196 is so closely allied with the preceding sections they have been set up as a separate section (with subdivisions) in the recodification and inserted at this point. The substance has not been affected.

§163-267. Secretary of State to report failure to file reports.

Source: §163-196 (8)

Comment: The affirmative instructions set out in §163-196(8) are now buried in a section defining misdemeanors. Without altering the substance,

they have been set up as a separate section drawn so as not to conflict or overlap with new §163-268.

§163-268. Secretary of State and superior court clerks to request reports; Attorney General and solicitors to prosecute.

Source: §163-200

Comment: The new draft adopts the present section without change.

§163-269. Violations by corporations.

Source: §163-196 (14)

Comment: Since the substance of subsection (14) of §163-196, is so closely allied to the reporting provisions of the preceding sections, it has been set up as a separate section and inserted at this point. The substance has not been affected.

§163-270. Using funds of insurance companies for political purposes.

Source: §163-206

Comment: The new draft adopts the present section without change.

§163-271. Intimidation of voters by officers made misdemeanor.

Source: §163-201

Comment: The new draft adopts the present section without change.

§163-272. Disposing of liquor at or near voting places.

Source: §163-202

Comment: The new draft adopts the present section without change.

§163-273. Offenses of voters; interference with voters; penalty.

Source: §163-176

Comment: The section has been recast in the pattern established in §§163-196 and 163-197. This eliminates the extremely long sentence structure found in the present section.

The term "voting enclosure" has been used throughout the new draft to insure uniformity with other sections of the recodification. This usage seems to fit the true intent of the present law.

No substantive changes have been made in the section. It is transferred to this article from its present position because of its general application, and because it fits appropriately into an article dealing primarily with definition of criminal offenses in connection with elections.

§163-274. Certain acts declared misdemeanors.

Source: §163-196

Comment: Present Subsections (7) and (8) of the source section are covered by the new draft of §163-266, and present Subsection (14) is covered by the new draft of §163-269, thus the substance of those three subsections does not appear in the new draft of this section. In new Subsection (11) [formerly Subsection (13)] the reference to the register of deeds has been deleted as obsolete. Otherwise the new draft adopts the present section without change.

§163-275. Certain acts declared felonies.

Source: §163-197

Comment: The new draft adopts the present section without change.

§163-276. Convicted officials; removal from office.

Source: §§163-186, -207

Comment: The two source sections were intended to accomplish the same purpose, thus they have been combined into a single section and placed in this article as the most appropriate location.

§163-277. Compelling self-incriminating testimony; person so testifying excused from prosecution.

Source: §163-198

Comment: The section formerly appeared in Article 21; to insure that its coverage in the expanded article fits the original intention, very minor language modifications have been made.

§163-278. Duty of Attorney General and solicitors to prosecute violations of article.

Source: §163-199

Comment: Since Articles 21 and 22 have been combined in the recodification it is appropriate that this section be placed at the end. Its substance has not been changed.

PART IV

COMMISSION'S SUPPLEMENTAL COMMENTS

The Commission submits the following supplemental comments for whatever action the General Assembly may desire to take. The matters noted in these comments, in the Commission's opinion, open questions of policy and the enactment of new law. Having been restricted to the task of recodification, the Commission members have not presumed to propose legislation on the subjects noted here, but they feel it is their responsibility to bring them to the attention of the members of the General Assembly of 1967.

1. Filling Vacancies in the Legislature

Since Senators and members of the House of Representatives now represent districts rather than counties, consideration should be given to whether Article II, §13, of the North Carolina Constitution should be amended. That section now provides that, in the event of a vacancy in the General Assembly, the Governor is to appoint the person recommended by the executive committee of the vacating member's political party in the county of his residence.

2. Filing Deadline for Candidates Seeking Legislative Office

Aspirants for legislative office are now required by §163-119 [recodified as §163-106] to file notices of candidacy with the appropriate board of elections by noon on Friday before the sixth Saturday before the primary (as for county offices). Much difficulty was experienced in 1966 in getting timely certifications of these notices to each of the counties in a legislative district. Thus, consideration should be given to advancing this filing date to Friday before the tenth Saturday before the primary (as for state offices).

3. Filing Fees for Candidates

Since much confusion exists as to how to determine appropriate filing fees to be paid by persons seeking nomination for positions compensated wholly by fees, consideration should be given to amending §163-120 [recodified as §163-107] to set a fixed dollar fee in such instances in lieu of a flat fee plus a percentage of the annual income of the office.

4. Nomination and Election of District Officers

In all situations in which persons are nominated and/or elected from or for districts composed of more than one county, consideration should be given to requiring them to file their notices of candidacy in all instances with the State Board of Elections, requiring the State Board

to print all ballots to be used in voting for district offices, and requiring the State Board to canvass and determine the results of the voting for all multi-county district offices.

5. Custody of Ballot Boxes

After an election has been held §163-84.2 [recodified as §163-171] empowers the chairman rather than the full county board of elections to instruct precinct officials how to dispose of or deliver ballot boxes. Another section (§163-178), otherwise largely obsolete, places this authority in the full board. The Commission has adhered to the provisions of §163-84.2, but suggests that the matter might be reconsidered by the legislature. Compare §163-158 [recodified as §163-143] and §163-157 [recodified as §163-142].

6. Use of Markers in Referenda

Consideration should be given to whether markers should be permitted in elections (referenda) in which the only question for the voter concerns a proposition or constitutional amendment. The tone of §163-172 suggests that a partisan contest is the only appropriate arena for markers, and the Commission has adopted that view in the recodification [§163-44].

7. Temporary Nature of Military Registration.

When an individual registers through absentee application under the Military Absentee Law his registration terminates when he leaves military service, and he must re-register in order to vote. This has caused some confusion and misunderstanding among returning servicemen. Consideration should be given to amending the law either (a) to make such registration comparable to regular registration, or (b) to require that each military registrant be notified of the temporary nature of his registration.

